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Table 7



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Chambers Island
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G. A. [unclear] 1897

A COLLECTION
OF THE SEVERAL
PETITIONS, REPRESENTATIONS
AND
ANSWERS
OF THE
STATES AND OF THE ROYAL COURT
OF JERSEY,
relative to political differences,
comprehending Transactions from the year 1779 to 1788,
BOTH INCLUDED,
TOGETHER WITH THE ORDERS OF
HIS MAJESTY IN COUNCIL
ISSUED THEREUPON,
WITH A FEW EXPLANATORY NOTES.



J E R S E Y.

M. DCC. LXXXVIII.

St. from last



INTRODUCTION.

THE following collection of the several Petitions, Representations and Answers, relative to the present political differences in the Island of Jersey, and of the Orders of Council which have issued thereupon, has been printed at the desire, and principally for the use and conveniency, of a considerable number of the Gentlemen of the Island. It will not only, be as it is presumed, of service to those who are concerned in those differences, or in the result of them, but it may also be entertaining to the public in general, to see comprised in one volume the various public transactions of one of the most interesting periods in the history of Jersey.

Nothing more is intended by the present publication than setting down with accuracy, and in due order of time, the several Petitions Answers, and Orders as they appeared, with as few observations as possible. Other documents however, relative to publick matters have been thought necessary, in order to elucidate the nature and tendency of these disputes, and to give a clearer insight into the conduct, and pretensions of the contending parties. A few notes are also subjoined, explanatory of passages and circumstances which, destitute of that assistance, might be ill understood.

Although the Island of Jersey has from time to time, for two centuries past and upwards, been a scene of discontent and troubles among the people, excited by what they deemed the oppressions of their Magistrates, and carried to the unfortunate extremity of causing two insurrections within the space of fifty years; yet it has not been thought requisite, or suited to the present design, to go farther back than the disputed election of James Pison esq^r. to the office of constable and representative for the parish of S. Brelade. This point having given rise to the disquisition of the respective rights of the legislative and judicial bodies, and having awakened the attention of the inhabitants to those evils under which they were left to groan, forms a memorable æra in the history of this little country.

A work, including proceedings of an earlier date, would be too

voluminous, and less interesting to the present generation. The curiosity however of those, who wish to investigate the probable original causes of those former troubles, and of the present contest, as connected with transactions of a more remote period, will not be left wholly ungratified. They will find many curious facts in the statement of the imperfections of the laws, and of the abuses in the administration of justice, prefixed to the proposition for re-establishing the trial by juries in civil, mixt, and criminal cases, agreed upon by the States on the 4th. of october 1786, and since transmitted for his Majesty's approbation.





TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

THE humble Petition of the Dean and Rector of the parish of St. Saviour, the Rectors of the parishes of St. Peter, St. Laurence, St. Helier, St. Ouen, St. Mary, and St. Martin; and of the Constables and Representatives of the parishes of St. Helier, Trinity, St. Ouen, St. John, St. Mary, Grouville, St. Martin, St. Clement, and St. Peter, being the major part of the members of the States of your Majesty's Island of Jersey,

SHEWETH,

THAT it is with concern your Majesty's Petitioners find themselves under the necessity of representing to your Majesty at this time of trouble and danger, when the united efforts of the States would be more properly bent on publick matters and the defence of this country, that the meetings of the assembly of the States are now totally discontinued, and the course of the publick business consequently obstructed; the occasion of which your Majesty will be most graciously pleased to be made acquainted with by the following faithful relation of incontestable facts.

That in the year 1773, the 17th. day of april, in consequence of an appointment from the Right Honorable General Conway, Governor of the Island of Jersey, James Pipon esq^r. was sworn, before the Royal Court, one of the Receivers of your Majesty's revenues in the said Island.

That in the year 1776 the said James Pipon was chosen Constable of the parish of St. Brelade by the votes of the inhabitants of the said parish, and took the usual oath of Constable accordingly before the Royal Court, on the 17th. day of february 1776.

That at the expiration of three years, when the said office of Constable became vacant agreeable to law, the Court appointed another election, and the said James Pipon was chosen a second time Constable of the parish of

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St. Brelade by a great majority of votes : but that, on being presented before the Court to be sworn, the Court did refuse to administer the oath, pronounced the office of Receiver of your Majesty's revenues incompatible with the office of Constable in the said parish of St. Brelade; all which appears by their act of the 27th. of february 1779.

That as soon as this act of the Court was made, and immediatly on the publick reading thereof, the said James Pipon protested against the proceeding of the Court, disputing their competency in the matter, and requesting that it might be debated in the assembly of the States of the Island, or otherwise referred to your Majesty in Council; to which remonstrances the Court did not then think proper to pay any attention.

That on the 28th. of february 1779, by virtue of this appointment of the Court for another election, the votes of the inhabitants of the parish of St. Brelade were again collected, of which the said James Pipon had a still greater majority.

That in consequence of the result of this last election, the Court had a private meeting, where they resolved to stop all further proceedings in the affair till your Majesty's pleasure was known; but at the same time made an order, that the eldest Centenier of the parish of St. Brelade should act in the mean while as Constable, and sit in the assembly of the States as representative of the parish of St. Brelade, which appears by their act of the 9th. of march 1779.

That at a meeting of the assembly of the States, appointed for the 13th. of march 1779, in which the Centenier of the parish of St. Brelade by the Court's appointment was sitting as member, one of your Majesty's Petitioners, before the business of the day was opened, made a previous motion to enquire into the cause and legality of the said Centenier's presence in the States. But that the chief Magistrate, who presides in the assembly of the States, peremptorily and obstinately refused to submit the motion to the deliberation of the States, notwithstanding it was properly seconded, and the President repeatedly solicited to that purpose by several others of your Majesty's Petitioners. That on a question put by the President "whether the States should proceed to business?" your Majesty's Petitioners, after mature and deliberate consideration, and in obedience to a positive order of your Majesty in Council, came to the following resolution (not without assuring the Lieutenant Governor, who was present, that they were willing and ready to concur with and lend him all the assistance in their power to pursue the measures already taken for the defence of the Island, and other exigencies of the State) "that as the Constable of the parish of S. Brelade was not present in the States, and the Centenier of the said parish not legally authorized to act in his stead, the assembly of the States was incomplete, and could not proceed on publick business;" which appears by the act of the States of this day.

Your Majesty's loyal and faithful subjects the Petitioners are conscious that they have been guided by honour and principle, that they have acted the part of free and unprejudiced citizens, and have discharged the trust which the confidence of their country imposes on them. Fearful however lest their conduct should be misrepresented, and the present stagnation of affairs with all its consequences attributed to their honest endeavours of preserving the privileges of their country, they beg leave to submit, with the greatest humility, to your Majesty's superior wisdom the sensible and alarming impressions, which the proceedings of the Court, throughout this affair, have made on the minds of your Petitioners.

There appears, in the first place, a manifest inconsistency between the act of the Court of the 17th. of february 1776, and that of the 27th. of february 1779, the one admitting James Pipon esq^r. to take the oath of Constable, the other refusing to administer the oath to the same person no otherwise now disqualified, invested at either time with the same and no other office, and bearing from his constituents a testimony the more respectable, as it was founded on experience : an inconsistency reconciled by no intermediate law, ordinance, or precedent, accounted for by no circumstance attending the latter, that did not exist in the former act, not even countenanced by the appearance of any abuse or inconveniency's having resulted from the junction of both offices.

There appears also in the acts of the Court of 27th. of february and 9th. of march 1779, an injurious neglect of the votes of the inhabitants of the parish of St. Brelade, their choice of a Constable being therein totally disregarded, their freedom of election evidently pointed at, and their right of constituting a representative in the assembly of the States absolutely violated.

But above all, and what is still more alarming, there appears in both the acts of the Court of the 27th. of february and 9th. of march 1779 a determinate intention of assuming the legislative authority by an unwarrantable stretch of power.

To make a positive ordinance *ex post facto*, and against written law and precedents; to reject a Constable duly chosen, and to annihilate the votes of a parish by ordering another election, contrary to that choice; to invest a Centenier with a Constable's power; to appoint him the representative of a parish in opposition to the votes of the people; and to order that he shall sit as member in the assembly of the States without the concurrence of that assembly; these proceedings call up the most serious apprehensions. They evidently point at the constitution of the Island; insinuate a right to supersede and give laws to the assembly of the States; are an attempt at arbitrary power; and, big with mischief and danger, they threaten the inhabitants of this country with the loss of their most precious privileges.

These proceedings of the Court are the more unaccountable, as they act in direct opposition to an order of your Majesty in Council, dated the 28th. of

march 1771, which stands at the head, and makes part of the Code of laws established for the political government of this Island, in which your Majesty's pleasure is expressed in the following terms. " And his Majesty doth
 " hereby order, that no laws or ordinances *whatsoever*, which may be made
 " provisionally, or in view of being afterwards assented to by his Majesty
 " in Council, shall be passed but by the whole assembly of the States of
 " the said Island; and with respect to such provisional laws and ordinances
 " so passed by them, that none shall be put or remain in force for any
 " time longer than three years; but that the same, upon its being represented
 " by the States to his Majesty that such laws & ordinances are found by
 " experience to be useful and expedient to be continued, shall, having first
 " obtained his Majesty's royal assent, and not till then, be inserted and become
 " part of the Code of the political laws of the said Island, &c. "

This is a law plain and positive, which the Magistrates of the Island ought ever to have present to their minds, to hold in awe and reverence; for it was obtained in consequence of the fatal oppressions, which the inhabitants of this country had felt from the Court's exercising at once the legislative and executive power; a law, which your Majesty's Petitioners are bound strictly to attend to, and the violation of which it is their interest and duty to oppose.

Encouraged by these sentiments, guided by motives of conscience, your Majesty's Petitioners, full of zeal and confidence, but with profound humility, look up to your Majesty for the confirmation of those important privileges, which it has been their sole object to preserve, praying that your Majesty will be most graciously pleased to order that the acts of the 27th. of february and 9th. of march 1779 be erased from the records of the Court; and that the Court may never presume for the future to make either law, statute or ordinance, provisional or durable, on any pretext *whatsoever*. And that it may please your Majesty further to express your royal disapprobation at the conduct of the President of the States, and to order that he shall not henceforth refuse to submit to the deliberation of the States any motion proposed by a member of the States, and seconded by another member of that assembly; and finally that the course of publick affairs may no longer be obstructed, the Petitioners humbly entreat that your Majesty will be pleased to consider and resolve, whether the office of Constable and Representative of a parish be incompatible with the office of Receiver of your Majesty's revenues in the Island of Jersey. And your Majesty's Petitioners as in duty bound shall ever pray, &c.

Island of Jersey,
april 2d. 1779.

Signed by *Francis Le Breton, Dean and Rector of St. Saviour.*
Richard Le Feuvre, Rector of St. Peter.
Edward Biffon, Rector of St. Laurens.
J. Dupré, Rector of St. Helier.
J. Du Parcq, Rector of St. Ouen.

Signed by

Signed by *Francis Valpy, Rector of St. Mary:*
Francis Le Couteur, Rector of St. Martin:
Will. Patriarche, Constable of St. Helier.
John De La Perrelle, Constable of St. Ouen:
John Dupré, Constable of St. Mary.
John Hooper, Constable of Grouville.
Ph. Collas, Constable of St. Martin.
J. Filleul, Constable of St. Clement.
J. Dumaresq, Constable of St. Peter.

The Constables of Trinity and of St. John were of the number of those who form'd the majority in the assembly of the States on the 13th. of march 1779, and declare they still persist in the resolution of that day, but have refused to sign this petition.

Answer of the Royal Court to the above Petition.

TO the Right Honorable the Lords of the Committee of his Majesty's most Honorable Privy Council for the affairs of Jersey and Guernsey.

WE the Lieutenant Bailly and Jurats of his Majesty's Royal Court of the said Island of Jersey hereunder subscribed, in obedience to your Lordships' order of the 22d. of june last directing us to return to your Lordships our answer in writing to the petition of several members of the States of this Island, complaining of an act of this Royal Court whereby the oath of Constable was refused to be administered to James Pipon, one of the Receivers of his Majesty's revenues in this said Island, who had been elected and chosen Constable of the parish of St. Brelade; and whereby it was pronounced that the office of Receiver of his Majesty's revenues was incompatible with that of Constable, beg leave to lay before your Lordships.

That in february 1776 the said James Pipon was, through the practises of some inconsiderate persons, elected into the said office of Constable of the parish of St. Brelade, and, having come before the Royal Court, was on the 10th. of the same month sworn into the said office, the chief Magistrate being then attended by two Jurats only, who did not then consider the impropriety of his exercising it while he was Receiver.

That the said office of Constable being by law triennial, on the 20th. day of february last the Royal Court ordered a new election for the same to be filled up. The incompatibility of these two offices united in the same person had been felt, while Mr. Pipon exercised them together, but as he had made public professions of his reluctance to continue in that of Constable, it was expected that the inconvenience would cease.

That through the instigation of the same rash advisers, as we are credibly informed, he was brought to suffer himself to be again secretly recommended

C

to the choice of the parishioners; in consequence of which practices he got a majority in opposition to the votes of his friends and nearest relations, who judiciously looked upon that step contrary to his private, as well as against the publick interest. In consequence of this second choice, having come before the Court on the 27th. of february aforesaid to renew the oath of office, the bench, then composed of eight Jurats, with the chief Magistrate, (a number more than sufficient to form a Quorum, and to decide upon points of the greatest consequence in the Island) considering the legal incompatibility of the two offices aforesaid being united in the same person, pronounced accordingly, and made an order for another person to be elected into that of Constable of the said parish; and in order to avoid the least suspicion of personal reflections against M. Pipon, the Court by the same act did ample justice to his character.

That M. Pipon left the Court seemingly satisfied with this resolution, and it was not long before our breaking up that entering again, attended by M. Dumaresq, constable of the parish of St. Peter and an advocate of the Court, he proposed a protest of an unprecedented nature and tendency to be entered up against our proceedings, which not having been admitted, he thereupon declared he would lay his complaint before his Majesty.

That instead of having recourse to his Majesty, as the only means consistent with decency and good order, and the only authority to reform the mistakes of this his Royal Court, the measures they pursued were directed to oppose this decree; and by means of the persons who had already misled M. Pipon, the people of St. Brelade were animated with resentment against the civil authority, and influenced to persist in their first choice. Those proceedings were even countenanced by the said M. Dumaresq, who, notwithstanding he is a constable of another parish, attended his election, and by M. Pipon himself, who harangued the people, solicited them publicly to continue firm in his favour, called the Court's authority in question in order to lessen its influence, represented the proceedings as injurious to them, and promised to take upon himself every consequence which might attend their compliance with his request.

That the Court, upon hearing of these proceedings from those of their members, whom they had empowered to collect the votes in this election, as is customary, and being further apprized that M. Pipon, with the assistance of the said Dumaresq, was industriously busy in stirring up a spirit of party and discontent against the magistrates, tending to render their administration of justice odious in the minds of the inhabitants, thought it their duty to stay their proceedings in the matter till his Majesty's Royal pleasure could be obtained, in order to prevent the bad consequences which a division of that kind must draw after it in the critical situation of the country; and therefore we passed an act certifying this resolution; and to the end that publick business should not be at a stand, we provided in the interim that the eldest Centenier or under-Constable of the said pa-

able (who by that office is legally qualified to the same functions, as well as to attending the assemblies of the States) should be directed to act conformably.

We conceive that we were warranted in our proceedings, in that a Constable in this Island is essentially and principally an officer under the Royal Court, as the tenor of his oath of office clearly evinces, and as such has a great share in the due observance and execution of the laws, being bound to enquire into every species of offence against them, to bring before this Royal Court persons suspected or accused of actions of a criminal nature, or deserving punishment either corporal or pecuniary, to act in capacity of foreman of the jury called enditement, and to give his verdict upon accusations, which gives him a great share in the conviction of criminals; to keep the peace inviolate in his parish, and bring to a trial those who disturb it, to be equally at the the head of a jury composed of his officers on the visitation of the publick roads by the Royal Court, upon whose return fines and amerçiements are imposed, to execute writs from the chief Magistrate and the Court in many matters of a more civil nature, and in other respects liable to obey their mandates as an officer under their authority; and therefore we considered that an officer, entrusted with such powers, cannot without opening a wide door to corruption and abuse be admitted to the exercise of them at the time that he is concerned in the revenue, made up in part of the very confiscations fines and amerçements, in the imposing of which he is often called upon to give his opinion.

The complainants lay great stress upon the act of this Court of the 9th. of march 1779, which they represent as a proof of our assuming a legislative authority by a most unwarrantable stretch of power, and in the most poignant terms traduce our proceedings as arbitrary, dangerous, and alarming to the inhabitants of the Island. This step, far from springing from motives and intentions so unworthy the character and dignity of Magistrates, was intended to stop the mischief and confusion which the determined temerity of some of the complainants and their adherents threatened to bring upon the Island at a time that the greatest unanimity was necessary for the defence of the country; and the provision was made to prevent the stagnation of the proceedings of the States in so critical a conjuncture by directing the eldest Centenier to attend that assembly until his Majesty's pleasure should be known, and cannot consequently appear, upon a dispassionate inquiry, as an appointment of a representative of a parish in opposition to the votes of the people, if it be but considered, that in consequence of the parish's election of that person to be Centenier (which office invests him with the same powers with the Constable, even to the right of voting in the States whensoever it may be expedient, as in case of absence, sickness, or other inability of the Constable.) He ought to have been considered by the complainants a legal representative

of the said parish. It must therefore be evident that the calling to the assembly of the States the eldest Centenier was no creation of a member of the assembly, as is pretended in the most offensive and incautious terms, neither doth the measure point at the constitution of the Island, nor tend to insinuate a right in the jurisdiction to supersede and give laws to that assembly.

The complainants further infer a manifest inconsistency between the acts of this Court of the 17th. of february 1776, and 27th. of february 1779, the one admitting James Pipon to the office of Constable, and the other refusing to admit the same person no otherwise disqualified, invested at either time with the same and no other office, and bearing from his constituents a testimony the more respectable as it was founded on experience; an inconsistency reconciled, as it is pretended, by no intermediate law, ordinance, or precedent, accounted for by no circumstance attending the latter which did not exist in the former act, not even countenanced by the appearance of any abuse or inconveniency having resulted from the junction of both offices.

We hereupon beg leave to observe to your Lordships, that notwithstanding this apparent contrariety in the two acts above mentioned; in the first place they speak not the sentiments of the same Magistrates, altho' passed in the same jurisdiction, the first being issued by two of the Magistrates only, who in the course and multiplicity of business might not attend to the impropriety, nor be struck with the inconvenience which result from the junction of two offices, which upon more mature consideration appear from their nature and powers egregiously incompatible. Secondly, it would be a strange reasoning to admit, that because an inferior number of Magistrates had been mistaken in one instance, the superior number must in a similar case confirm the error by a guilty tameness, and give sanction to an abuse though never so prejudicial. As to the testimony which the said Pipon and his adherents pride themselves so much upon, as founded upon the experience of his constituents, it cannot avail him in this case, as it is the production of persuasion and secret practices, which were the more easily prevailing over the minds of the commonality, that no solicitations were employed in favour of the person named by the most respectable part of that parish to succeed to the office of Constable; and that the majority in point of number dreaded the effects of a Receiver's resentment, who had it in his power to be avenged on them by the difficulties he could expose them to by the manner of exacting their tithes and other dues to his Majesty's revenue. And as to their assertion, that no abuse or inconvenience had resulted from the junction of the two offices, we shall adduce one instance which alone proves their incompatibility. M. Pipon, while Constable, brought before us two persons for an assault upon the house and body of a woman in that parish, which being put upon their trial were indicted by a jury or enditement, of which M. Pipon was the
foreman

foreman in consequence of which verdict they were sentenced to a fine to his Majesty, which became payable to M. Pipon as receiver, as appears by the act on that head.

In respect to what passed in the assembly of the States on the 13th. day of march 1779, we beg leave to lay before your Lordships, that upon a speech made by one of the complainants about the Centenier's presence in the assembly, in which he inveighed most immoderately against the proceedings of this Royal Court, and without the least regard to their character and dignity, laboured to the utmost to alarm the rest of the members upon what he stiled, without attention or regard, an attempt to arbitrary power, big with the most dangerous consequences to the liberty and privileges of the inhabitants, exciting apprehensions in the body of the Constables, of consequence to themselves in particular, and industriously flattering them with entire independence from the Court, and ending in a pretention that the States should then pronounce upon the legality of the said Centenier's presence, and the cause of the said Pipon not setting there as Constable of the parish of St. Brelade; the chief Magistrate, who is president in that assembly, foreseeing the dangerous tendency of the States assuming the authority of calling in question or reforming whatever they should pretend to be erroneous or unjust in the proceedings of this Royal Court, subject to no other authority than that of his Majesty in Council, remonstrated against such a pretension, as tending to throw the different departments into confusion and to put a total stop to their proceedings, and therefore proposed that as by the Charter of King Henry the 7th. it had been provided between the Governor and this Court, that in case of any difference about their mutual powers and offices they were not to attempt any thing against each other, but submit their disputes to his Majesty, so in the present similar case of dispute between the Court and States it was unbecoming for either side to decide in the matter, but just to refer it to his Majesty's superior wisdom; which moderate and conciliating expedient was not attended to by the chief among the complainants, who, depending upon their superiority in number, glowed with the desire of humbling this Court, and clamorously insisted upon the opinion of the assembly; thereupon the President declared that he could not consistently with his duty comply with a demand tending to upset the constitution, by allowing the two inferior bodies of the States to superceed the judicial decisions of the other as Magistrates; upon which the Rector of the parish of St. Saviour, not long since appointed Dean of the Island, with much warmth moved, that the States should immediately proceed to chuse a Judge delegué; by which step the chief Magistrate, of royal nomination, had been superceeded without formality, and deprived, not only of any sway or authority in the States, but likewise of the exercise of his judicial function as Magistrate.

Such are the grounds upon which the complainants pray his Majesty's
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disapprobation of the chief Magistrate, and his injunction to comply submissively in future with every pretention of any member of the States.

Animated by the desire of quieting, if possible, the apprehensions which the complainants professed at our measures, the chief Magistrate and his Majesty's Procureur general further proposed to the States, that for the public interest the assembly should proceed to the business proposed by the Lieutenant Governor, and a provision be made by the act which should be passed, reserving the parties to the right of complaining to his Majesty in Council upon the point in dispute; but every expedient was contemptuously rejected, and nothing could satisfy the complainants save absolute submission to their will.

As to the Petitioners imputation, that we have acted in opposition to your Majesty's order of the 28th. of march 1771, providing that no laws or ordinances should thenceforth be passed but by the whole assembly of the States, and that, this order having been obtained in consequence of the oppressions felt from the Royal Court by the inhabitants, we ought to hold the same in awe and reverence; we beg leave to observe that we cannot conceive, that our decision of the inadmissibility of the said Pipon to the office of Constable can be considered as a law, the enacting of which belongs to the legislative power, but as matter of incident cognizable by the judicial authority only; and for the other part of the imputation, it affords an additional proof of the temerity by which the whole conduct of the Petitioners is distinguished, and therefore shall not now dwell upon the justification of the Royal Court in that point, which would swell this answer beyond its proper size, but will content ourselves to observe here, that a great part of the laws and regulations, now in force in this Island in consequence of the said order and of his Majesty's royal approbation, had before been enacted by the Royal Court, and are now found beneficial and not oppressive to the inhabitants.

We think not ourselves warranted in imitating the Petitioners except in one instance, that of protestation to the rectitude of our intentions in these proceedings, which, if we could have foreseen the consequences occasioned by the rashness of the Petitioners, we should readily have suspended out of regard to the public tranquillity, and would have entreated and awaited his Majesty's pleasure and directions; but as we have been actuated by motives of duty to remedy an abuse likely to grow more and more dangerous, we dare flatter ourselves with meeting with your Lordships' support and countenance, and that far from being thought to deserve the disgrace and reprehension, which the Petitioners would draw down upon us from his Majesty, that it will appear to his Majesty and your Lordships expedient to direct that the act passed in the States the 13th. of march 1779 by the Petitioners be null and void, and that from henceforth the Receivers of his Majesty's revenues in this Island be dis-

qualified from holding any civil employment with the office of Recorder, and strictly enjoined not to interfere or take part in any election to any civil office whatsoever in the Island, or other matter regarding the civil government.

Island of Jersey,
16th Oct. 1779.

We are, with the utmost respect, your
Lordships' most faithfull and obedient
humble servants.

Charles Lempriere, Lieutenant Bailly,
Joshua Pipon.
Edward Le Maistre.
Phil. De Carteret.
Fr. Marett.
Nic. Messervy.
Ch. Payn.
Elias Pipon.
Ph. Robin.

Remarks on the foregoing answer of the Lieutenant Bailly and of some of the Jurats, which have appeared at Council in support of the Petition of the States respecting the Court's refusal to administer the oath of constable to James Pipon, esq^r.

• That in february, &c. •

Remarks. It is asserted in the beginning of this paragraph that M. Pipon attained the office of Constable through the intrigues of inconsiderate persons; yet it is well known that no improper means or stratagem were used in favour of M. Pipon; that the inhabitants of St. Brelade were guided in their choice by no other motives than the regard they had for him, and the good opinion they entertained of his abilities: they gave him freely their votes, without any solicitation. If some particular persons, who stile themselves his friends and his nearest relations, have disapproved of this choice; it can be asserted with truth, that it has been generally applauded by most of the inhabitants of this country.

The mis representation, so conspicuous in the beginning of this answer, must create a doubt on the veracity of the whole.

The last part of this paragraph is not less remarkable than the first. The Lientenant Bailly and the Court tell the Lords of Council, that the Magistrates did not consider what they were about the first time they administered the oath to M. Pipon, and it is worthy of observation that at the very time they are acknowledging that a Court of judicature may have passed a sentence inconsiderately, they apply the appellation of inconsiderate persons to M. Pipon's electors, and seem in this last instance to

look upon it as the highest disgrace.

“ That the said office of Constable, &c. ”

Remarks. This pretended incompatibility is totally void of foundation or proof; no inconvenience has ensued in consequence of the union of these two offices during M. Pipon's holding them. In another part of this answer it is observed, that M. Pipon was called upon, as Constable, to give judgment in the case of two men whom he had brought before the Court; this fact proves nothing. The enditement or jury, of which he made a part, gave in its verdict, and the Court imposed a fine which became entirely the property, not of James Pipon, as it is falsely insinuated, but of the Governor. All the Judges were present at this trial, and no one was surprised at, or objected to M. Pipon's acting as a jurymen; they then entertained no idea of the incompatibility of his two offices, although they had full time to consider of it.

It is observable what a strange contradiction has marked the conduct of the Magistrates; they are now displeased that a Receiver should exercise a civil office, though they have seen without the least disapprobation, the revenues of his Majesty, for several years, in the hands of the present Lieutenant Bailly, of the King's Procureur, his brother, and of their brother-in-law, a Jurat. M. Pipon, properly speaking, is no more than the Governor's clerk; he has no interest whatever in augmenting his revenues; whether they rise or fall, his salary is always the same. M. Pipon has no concern in the execution of the laws; he can impose no fine on the inhabitants, and cannot consequently encrease the King's revenues; but the powerful family, just mentioned, had a thousand ways of appropriating to themselves the fortunes of individuals; and the temptation was almost irresistible, when it is considered that they farmed these revenues, and that an augmentation of them was manifestly their interest. This enormous union of different powers was universally known, and yet the Royal Court never made the least endeavour to divide them, or ever expressed its dread of the consequences. Shall it be said, to weaken the force of this remark, that the Lieutenant Bailly, his brother, and M. Ricard were men of uncorrupted equity? But is M. Pipon inferior to them in point of honour, integrity, and virtue?

If those cabals and intrigues, which the Magistrates take notice of in their answer, had actually existed in M. Pipon's elections, if that mischief of which they complain had taken place, they would hardly have passed them over in silence in the act, by which they refuse to administer the oath, nor would they have acknowledged, that he had filled his office of Constable properly and honourably, as they do in their act of the 27th. of february 1779.

“ That through the instigation, &c. ”

R. M. Pipon was not, either in this or in the former election secretly recommended

manded to the parishioners; they have chosen him as free and independent voters, and have called him to the office of Constable from a persuasion that he deserved their confidence. They were not influenced by their dread of him as Receiver; they were influenced by the favourable impressions which his constant rectitude of conduct and his integrity had made on their minds, a truth which these gentlemen who call themselves his friends and his nearest relations, would not fail to acknowledge if they knew the duties annexed to those sacred ties.

» That through the instigation, &c. »

R. How can it be asserted that there is a legal incompatibility between two offices, when no law exist to prove it. The Court itself must be well convinced that its act is founded on no law whatever; but that there is a variety of precedents directly contrary to this decision. Within the remembrance of most of the present Jurats, Francis Marett, gentleman, father of one of them, was Constable, and Receiver at the same time, as several acts of the States and Court can testify; and to these two offices was added that of deputy, King's Procureur. The same Francis Marett was afterwards elected to a seat on the bench of justice, notwithstanding which he still held the place of Receiver. Edward Ricard esquire, one of the present Jurats, has long received his Majesty's revenues at a time when the Receivers where properly the Governor's farmers, and enjoyed the whole on condition of their paying him a stipulated sum; a temptation to oppressive exactions, removed in the person of M. Pipon, who is accountable to his Principal for every shilling he receives. Where then is the legal incompatibility between the two offices above mentioned? One circumstance it is not improper to observe, and which the Court might have its views in not noticing, is that eight Jurats only sat that day on the bench, and that three out of that number admitted the legality of the elected, and were for swearing in M. Pipon.

» That M. Pipon left the Court, &c. »

R. M. Pipon did not go out of Court, satisfied with the decision, since he entered a protest, which was presented, immediately after the reading of the act.

» That instead of having recourse, &c. »

R. This paragraph and the following are, in a great measure foreign to the subject, and only tend to shew the illiberal and ungenerous sentiments of the writers. Yet, as these invectives are meant to affect the reputation of a person who had no opportunity of justifying himself, it is proper to observe, that M. Dumarsq, « so far from being industriously busy in stirring up a spirit of party and discontent against the » Magistrates, tending to render their administration of justice odious in.

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» the minds of the inhabitants, » he openly warned both the King's officers of the evil consequences which the act of the Court might produce; told them that the worst of effects would result from this dangerous measure; publicly declared his intention of doing his utmost, as a member of the States, to support the freedom of election; earnestly entreated the Court to repeal their fatal act; that it was yet time, and that this step would prevent a great deal of mischief in these very critical times. All his remonstrances were useless; they made no impression on the minds of the Jurats.

» That the Court upon hearing, &c. »

R. The reasons advanced here and in the following paragraph by the Court, to justify their act of the 9th. of march 1779, carry a certain weight which may impose at first sight, and tend to prove that the complaint of the Petitioners was without foundation. It may be said that, as a Centenier can represent a Constable in certain cases, it is natural to infer that the Court could, with propriety, appoint this officer to act in the States without designing to create a member of that assembly. But when it is considered in what particular cases the law admits of a Centenier in the room of a Constable, the fallacy of this argument will easily be perceived, and the fears of the Petitioners will appear well grounded. The Centenier is never admitted in the States but in case of the Constable's absence from the Island sickness or such like impediment, and it is not necessary or even customary in those cases that the Court should at all interfere: the Centenier acts *ex officio*; the law and not the Court requires his attendance. The absence of a Constable from the States is a subject which cannot be discussed but in that assembly. Yet the Court in this instance, of its own authority, and without any of the reasons above mentioned, appoints the Centenier to act in the room of the Constable and deprives the inhabitants of S. Brelade of their lawful representative. These proceedings of the Royal Court were manifestly intended to overrule the legislative assembly or to impede their functions. The act of the 9th. of march 1779 is a confirmation of that of the 27th. of february 1779; it is even more arbitrary, and contains visible marks of the spirit which actuated the Court. The latter rejects the election of a Constable, the former goes further and appoints a person to act in his room contrary to the wishes and against the votes of the inhabitants of the parish of S. Brelade. It is rather surprising that the Court should pretend to the power of creating a member of the States, when the States alone have the right of appointing a *Juge délégué* to act as Chief Magistrate in the jurisdiction, in case of the absence or death of the Lieutenant Bailly.

» We conceive that we were warranted, &c. »

R. The Petitioners cannot agree that a Constable is wholly and prin-

cipally under the controul of the Royal Court, for it would be absurd to suppose a member of the legislative assembly absolutely subservient to the executive body. The first and most essential part of his duty, intirely independent of the Royal Court, is to represent his parish in the States, where he has a right to debate, and to give freely his opinion on every question. A Constable is also a police officer in his parish, and as such, in some respects, obliged to execute the orders of the Court; but can it be infered from thence, that he is to be elected by the Magistrates, or, what is in fact the same thing, that they may reject him when ever they please. Is it because he is subordinate to the Court in the discharge of this part of his office, that the Court has a right to alter the law which fixes the manner which he is to be elected? or doth it give a power to these Jurats to decide, if a Receiver is or is not to be a Constable?

• That the majority in point of number, &c. •

R. This malicious insinuation is here given to hurt M. Pipon's reputation by those very persons who style themselves his friends and nearest relations; it is false and unjust; and the Petitioners can assert, without any apprehension of being contradicted by the publick voice, that the influence of M. Pipon amongs his parishioners, proceeds not from fear but from the esteem they bear him; and as to the arbitrary manner in which he is said to have collected the revenues of his Majesty, General Conway who knows how he has acted in this respect, and who undoubtedly will assist at Council; will not decline repeating on this occasion his flattering approbation of M. Pipon's conduct, expressed in a letter to that gentleman, which has been read in the assembly of the States.

• In respect to what passed, &c. •

R. This is a most unfaithful representation of what passed. That the Petitioners were warm and strenuous in endeavouring to prevent the infringement of one of their dearest rights, it would be little to their credit to deny. The arguments they made use of were neither indecent nor unbecoming. All the disorder proceeded from the almost continual clamours of the President of the States, who repeatedly interrupted the members, and it was not untill he refused, in a most insulting and obstinate manner, to put some propositions to the votes, that the Dean moved to chuse a Judge *délégué* in his stead, that the States might come to some resolution. It is at the conduct of the President in this instance that the States pray his Majesty to express his Royal disapprobation.

• Animated by the desire, &c. •

R. The Petitioners answer, that they made a proposition to the same purpose; that they assured the Lieutenant Governor they were ready to assist him in the States, as much as law in their power; and it is pro-

per to remark that the Court would never consent to refer the decision of the point in dispute to his Majesty, till they found that their attempts to overrule the legislative assembly were unsuccessful. The above conciliatory means were much recommended to the Court in the outset of the business as appears by M. Papon's protest.

“ As to the Petitioners' imputation, &c. ”

R. It is difficult to understand here the Jurats' meaning, for surely they do not pretend that the incapacity of a person to fill the office of a member of the legislative assembly is cognisable by the jurisdiction, and that all matter of incident which concerns the constitution is to be decided by them without any attention to the law. If such are their pretensions, it doth not deserve the least answer; if it is otherwise, it is a matter of little consequence.

“ We think not ourselves warranted, &c. ”

R. This last part of the answer of the Court show the same jealous dispositions and the same wish of domineering over the legislative assembly which has so manifestly distinguished its conduct throughout this proceeding. The act of the States cannot be annulled without confirming the appointment the Court has made of a Centenier to act in that assembly, assuming thereby a right of creating a representative of a parish, and subjecting the legislative power of the Country to its controul. The Court therefore requires no less than a total subversion of the constitution; the success of these endeavours would be looked upon by the inhabitants of the country as the greatest of misfortunes.

The Court has a thousand times abused of its authority; many to this day feel the ill effects of it; and whatever tends to renew the arbitrary power it has often exercised must naturally encrease the well founded apprehensions of all rank of people. The legislative and executive powers have long existed in the Jurats. Individuals appeared before them, uncertain of their rights and fearfull of the sentence that might issue. Every decision, often grounded upon the arbitrary will of the Judge, became a binding law for the future. It is no wonder therefore if the alarm was spread all over the island; if the people felt or at least spoke of oppression. They carried their complaints to the feet of the throne, and his Majesty, by his order of the 28th. of march 1771, was graciously pleased to stop the evil by ordering that “ no laws or ordinances whatsoever, which may be made provisionally or in view of being afterwards assented to by his Majesty, shall be passed but by the whole assembly of the States. ” It is not necessary to enter into any discussion to be convinced that the Royal Court have transgressed that law, and all their endeavours to justify their conduct are groundless. The Petitioners are convinced that all their proceedings are agreeable to law and that the act of the States of the 13th. of march 1779 is conformable to an express order of his Majesty in Council; they hope therefore

that his Majesty, considering that they have no other view nor intention but that of maintaining the people in the possession of one of their most precious privileges, will be graciously pleased to grant them his Royal approbation. They persist therefore in the conclusion of their Petition:



THE States, having by their act of 13th. of march 1779, declared their assembly incomplete owing to the absence of M. Pipon, constable of St. Brelade, and therefore unable to proceed to business, and the Court refusing to swear in M. Pipon, a total stop was put in consequence to the publick affairs of the Island. This being a time of war, and the safety of the Island at stake during this interruption of affairs, General Conway desired M. Pipon his Receiver to waive his right until the Lords of the Council had decided the merits of the election. M. Pipon agreed to this, and informed his electors of it, upon which M. Edward Remon was chosen Constable and the States resumed their functions.

In november following M. Pipon brought his accounts before a Committee of the parish of St. Brelade : Joshua Pipon esq. a Jurat of the Royal Court who first opposed the swearing in of M. Pipon, was one of this Committee. He presented to the Court the following Petition or Remonstrance on the 20th. of november 1779.

A M. LE LIEUTENANT BAILLI ET MESSIEURS DE JUSTICE.

JOSUÉ PIPON, écuyer, un des Jurés-Justiciers de la Court Royale,
Remontre,

QUE les Juges ayant été, dans tous les temps, élevés à cette dignité du nombre des habitans de cette île qui tient le premier rang & mérite le plus de considération, ils ont été regardés, dans le maniement des affaires des paroisses où ils habitent, non-seulement comme les premiers, mais aussi comme personnes aux lumières & à l'expérience desquels on devoit déférer à plusieurs égards, particulièrement sur des sujets où les lois qu'ils sont obligés de maintenir ont prescrit des règles nécessaires.

Que, jeudi 18^e. jour de novembre 1779, votre Remontrant, assistant à un Comité délégué par la paroisse de S. Brélade pour l'examen des comptes de Jacques Pipon écuyer, le précédent Cornétable, & de ceux des surveillans, & ledit Pipon ayant présenté les comptes de sa gestion dans un cours de monnoie étranger, & différent de celui établi par les lois; votre Remontrant déclara, qu'il ne pouvoit pas consentir que lesdits comptes fussent passés ou approuvés sous cette forme; sur quoi ledit Pi-

poh, ayant soutenu qu'ils devoient l'être, & prétendu que cela ne devoit pas dépendre de l'opinion de votre Remontrant, mais de la résolution du Comité; votre Remontrant fut dans la nécessité d'insister contre une telle approbation, & de déclarer, qu'il ne s'estimoit pas, dans le Comité, comme un simple particulier, mais comme Juge, & obligé de voir que l'ordre prescrit les lois regnât, & qu'il devoit être regardé & respecté sur ce pied-là par l'Assemblée; que la dessus ledit Pipon déclara hautement, & avec un grand mépris de votre Remontrant, que votre Remontrant ne devoit point être regardé dans ce caractère par le Comité, & qu'il n'avoit que son opinion non plus qu'aucun autre, contre laquelle le Comité & la paroisse pouvoient approuver ses comptes dans la forme qu'il les avoit tenus, & qu'il les présentoit.

Que votre Remontrant conçoit que, quoique les assemblées paroissiales aient le droit de délibérer avec liberté dans les affaires qui les intéressent, & se décider sur leurs propres lumières, & d'après leurs sentimens, toutefois l'opinion des Magistrats doit être respectée, & si l'on en diffère, ce doit être avec le ménagement & les égards dus à leur dignité, & non avec une hauteur affectée, ou des marques de mépris, mais que dans l'ordre de procéder, & la forme que les lois ont établie, on doit déférer à leurs lumières, comme personnes dans l'obligation, & ayant l'autorité de veiller à leur exécution.

Que la conduite dudit sieur Pipon est non-seulement des plus méprisante envers votre Remontrant, dans son caractère public, mais elle tend d'ailleurs, par le droit de dicter qu'il prétend s'arroger dans les affaires de ladite paroisse, & particulièrement dans le cas sus-rapporté; & par l'influence que lui donne sa charge de Receveur sur plusieurs personnes, à autoriser la violation des lois, aux yeux mêmes & contre l'autorité des Magistrats.

Ce que considéré votre Remontrant vous supplie d'ordonner, que ledit sieur Pipon, ci-devant Connétable, & M. Edouard Remon, à présent Connétable de ladite paroisse, soient convenus en justice, afin qu'en leur présence il soit statué à l'égard du rang & de la déférence due aux Magistrats dans les délibérations paroissiales, & particulièrement dans le cas en question, que ledit précédent Connétable soit condamné réformer les comptes de sa gestion, selon l'ordre établi par les lois; & qu'au surplus qu'il soit ordonné, selon qu'en votre bonne justice, il sera jugé convenir à la dignité du Magistrat & au bien public.

Délivré en Cour séante
le 20 nov. 1779

(Signé,) J. Pipon.

This Petition after having remained lodged au Greffe for some days was at last destitely withdrawn and no more was heard of it.

*Order of his Majesty in Council deciding the point in contest respecting M.
Pipon's election.*

AT THE COURT AT St. JAMES THE 18th. OF MAY 1781.

P R E S E N T S,

T H E K I N G S M O S T E X C E L L E N T M A J E S T Y,

LORD CHANCELLOR,	EARL OF CLARENDON,
LORD PRESIDENT,	LORD CHARLES SPENCER,
DUKE OF CHANDOS,	LORD GEORGE GERMAIN,
LORD CHAMBERLAIN,	VISCOUNT STORMONT,
EARL OF DENBIGH,	JAMES STUART MACKENZIE Esq^r.
EARL OF HILLSBOROUGH,	SIR JOSEPH YORKE,

WHEREAS there was this day read at the board a rapport from a Committee of the Lords of his Majesty's most Honourable Privy Council for the affairs of Jersey and Guernsey, dated the 17th. of this instant, in the words following, viz.

„ Your Majesty having been pleased by your order in Council of the
 „ 16th. of June 1779 to refer unto this Committee the humble Petition
 „ of several person whose names are thereunto subscribed, members of the
 „ States of your Majesty's island of Jersey, complaining of an act of the
 „ Royal Court of the said island, whereby the oath of Constable was
 „ refused to be administered to James Pipon one of the Receivers of your
 „ Majesty's revenue in that island, who had been duly elected and chosen
 „ Constable of the parish of St. Brelade, and whereby it was pronounced,
 „ that the office of Receiver of your Majesty's revenue was incompatible
 „ with the said office of Constable. The Lords of the Committee, in obe-
 „ dience to your Majesty's said order of reference, did on the 22d. of
 „ June 1779, take the said Petition and complaint into their considera-
 „ tion and thought proper to direct, that a copy thereof should be trans-
 „ mitted to the Bailly and Jurats of the said Royal Court for their an-
 „ swer, and the said Royal Court having in pursuance thereof returned
 „ their answer in writing to this Committee. The Lords of the Committee,
 „ this day resumed the consideration of the whole matter, and having
 „ heard Counsel on behalf of the Petitioners as also in behalf of the said
 „ Royal Court, do agree humbly to report as their opinion to your Ma-
 „ jesty, that the office of Constable and representative of a parish, is not
 „ incompatible with the office of Receiver of your Majesty's revenues in
 „ the island of Jersey. „

His Majesty taking the said report into his Royal consideration was pleased with the advice of his Privy Council to approve thereof, and to declare that the office of Constable and Representative of a parish is not incompatible with the office of Receiver of his Majesty's revenues in the island of Jersey, and his Majesty is pleased to direct that this order be entered in the public registry of the Royal Court of the said island. Whereof the Bailly and Jurats of the Royal Court of the said island of Jersey for the time being, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

Signed, *W. Fawkenor.*

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The following is an application to the Royal Court from one of the Jurats claiming on other peculiar privilege as attached to his office.

A. M. le Lieut. Bailli Et MM. de Justice, Nicolas Messervy, écuyer, justicier.

Remonre,

QUE dans tous les temps, les Juges ont été regardés en cette île comme les principaux dans les paroisses de leur domicile, & lorsqu'il s'est agi d'aucune assemblée paroissiale, ou de délibérer des affaires de leur paroisse, il a été d'usage, non-seulement au Connétable, de les en avertir, mais même de les consulter & prendre le jour de leur commodité pour la tenir, comme une déférence due à leur caractère; & afin qu'une assemblée où leur présence & leurs secours sont nécessaires, ne soit point repue en un temps, qu'étant employés aux fonctions de leur charge, il ne leur seroit point possible d'y assister.

Que, lundi 27^e. jour de mars 1780, M^r. François Ydan vint, en qualité de vingtenier de la ville, de la part du Connétable de la paroisse de S. Hélier, notifier à votre Remontrant de se trouver le mercredi suivant à une assemblée de ladite paroisse qui avoit dû être publiée le dimanche précédent, & dont votre Remontrant n'avoit point été prévenu auparavant comme ledit Connétable & ceux qui l'ont précédé en ladite charge avoient de coutume de faire.

Que samedi 1^r. jour d'avril suivant, ledit Vingtenier vint encore de la part dudit Connétable avertir votre Remontrant de se trouver le mercredi suivant, à dix heures du matin, chez M^r. Ph. Lys, au Comité qui devoit y être tenu, & ensuite à une assemblée de ladite paroisse, quoique votre Remontrant n'en eut point été prévenu auparavant; qu'à ce dernier avis votre Remontrant déclara audit Vingtenier, qu'il ne pouvoit assister à l'une ni à l'autre de ces assemblées, étant obligé de donner son attendance au Comité des États pour la défense de l'île, dont il étoit membre,

membre, & qui avoit été fixé avant cette notification;

Que votre Remontrant envisage ce procédé, de la part du Connétable de ladite paroisse, comme une négligence affectée des égards ordinaires envers les Juges, tendant à les exclure du droit d'assister aux assemblées paroissiales, & croit que pour la dignité de la charge dont il a l'honneur d'être revêtu & le bien de ladite paroisse, auquel il est très-disposé de contribuer par les avis & les secours en son pouvoir, il est dans la nécessité de vous porter ses plaintes sur le sujet, & de vous demander que Mathieu La Cloche gent., Connétable de ladite paroisse, soit appelé en justice, afin qu'en sa présence tel ordre soit prescrit, qu'en votre bonne justice sera trouvé convenir; & votre Remontrant priera, &c.

Délivré en Cour séante
le 22 avril 1780.

Signé, *Nicolas Messervy*

M. La Cloche constable of St. Helier, in consequence of the above application, was summoned to appear, and he objected to the competency of the Royal Court, on the grounds of their being all equally concerned with the plaintiff in the point in dispute, and therefore judges in their own cause. The Court, instead of pronouncing on the question of competency, referred the whole to his Majesty, and made thereupon the following Representation.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL;

THE humble Representation of the Lieutenant Bailly and Jurats of your Majesty's Royal Court in your island of Jersey.

S H E W E T H,

THAT on the 22d. day of april last, Nich^s. Messervy esquire, one of the Jurats of the said Royal Court, presented to the said Court a Remonstrance in which he set forth, that the Magistrates having always been considered in the island as principals, and holding the first rank in the parishes where they resided, it had been an invariable rule in the Constable of such parish, not only to give them previous notice of the parish meetings or assemblies, which it might be necessary to hold, but also to consult and take their convenience in point of time, to the end that a meeting, where their presence may be essential, be not fixed to a time when the Magistrates being taken up for the discharge of their judicial functions, it would not be in their power to attend it. That the said rule has, besides, been considered as a mark of respect, and deference to their character and dignity; and complained that the Constable of the parish of St. Helier's for the time being, where the said Messervy resides, had, in derogation of this practice, on the 27th. of march preceeding, sent an under-

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officer to notify to him a parish meeting for the 29th., which had been published the Sunday before without any previous notice having been given him, as the said Constable, as well as those antecedent to him, had used to give. That moreover, on the first day of April following, the said Constable had again sent the same officer to notify to him, the said Messervy, that a Committee, and afterwards a meeting of the said parish would be held the Wednesday following at the place he mentioned, and that, without the usual notice from the said Constable previous to the fixing the said meeting. That, prior to this notification, the last mentioned day had been fixed by the chief Magistrate for holding a Committee of the States, chosen to provide for the defence of the island, of which the said Messervy being a member, it was consequently out of his power, however strong his inclination might be, to attend to the business, and interests of the aforesaid parish. That the said Messervy considered those proceedings of the said Constable as an affected neglect, on his part, of the regard due to the Magistrates, which had a tendency to exclude them from those assemblies in which their assistance was essential; and therefore prayed that the Court might provide such order in the matter as should be found suitable.

That thereupon it was ruled by this Court, that the said Remonstrance should be notified to Mathew La Cloche gentleman, the Constable of the said parish of Saint Helier, and a day assigned to him to answer before this Court to the matter of the said complaint.

That on the 8th. day of June following, the matter having been accordingly brought on before this your Majesty's said Royal Court to be heard and decided, the said Constable excepted to this Court taking cognizance thereof, pretending that we were not competent judges to decide the question, as appears by the said exception delivered by him in writing; whereupon the Court adjourned in order to consider of it the more maturely.

That having again met on the 10th. of June aforesaid to take the said exception into consideration, the said Constable, by means of his advocate, expatiated upon his pretention of our incompetency, and with much heat declared, that if the Court attempted to decide therein it would be an act of tyranny, and, regardless of the deference due and the respect to be shewn to a Court of justice, made use of other expressions which betrayed a decided intention to take this occasion to prejudice the people, and stir up the resentment of the inhabitants against this jurisdiction.

Wherefore, notwithstanding we found ourselves authorised to decide in this matter as well by the constitution of this jurisdiction, as by the regulations of royal commissioners and the constant usage of the island, we adjudged it most prudent in these critical times, and in order to obviate any sinister designs to disturb, upon the ground of our proceeding, the

tranquillity of the island, to suspend our judgment in this matter by referring it to your Majesty's superior wisdom.

We therefore beg leave to lay before your Majesty the above state of this case, and pray your Majesty may be pleased to take the whole of this matter into your royal consideration, flattering ourselves that when your Majesty shall have weighed the nature of the controversy, the powers with which this your Royal Court is vested to decide in matters arising in this island, the unexampled manner in which this power hath been questioned, and the attempt to awe our judicial proceedings by menaces of a serious nature and dangerous tendency, it will appear to your Majesty highly expedient to restrain and prevent in future such licentious proceedings towards this Court of justice, which, were they not checked, would be followed by anarchy and confusion; and to maintain the Magistrates in the rights, dignity and respect which are due to them, and may have been accustomed.

All which is humbly submitted to your Majesty's superior wisdom and justice, by
your Majesty's faithful servants,

Island of Jersey,
nov. 15, 1780.

Charles Lempriere, Lieutenant Bailly.
Joshua Pipon.
Edward Le Maistre.
Phil. De Carteret.
F. Maret.
Ch. Payn.
David Patriarche.
Elias Pipon.
Ph. Robin.
John Poingdestre.

This Petition of the Royal Court in support of M. Messervy's pretensions did not produce the intended effect; it never came to a hearing.

AT THE COUNCIL CHAMBER, WHITEHALL,

the 17th. of July 1782.

By the Right Honorable the Lords of the Committee of Council for the Affairs of Jersey and Guernsey.

His Majesty having been pleased, by his order in Council of 26th. of last month, to refer unto this Committee the humble Petition of the Lieutenant Bailly and Jurats of his Majesty's Royal Court in the island of Jersey, whose names are thereunto subscribed, against an act passed by a majority of the States of the said island on the 31st. May 1782,

directing the sum of 1963 liv. 12 s. 6 d. money according to order, to be borrowed upon the duty or impost on Rum and Gin, for the reimbursement of certain expences incurred in the prosecution of a Petition to his Majesty in Council against the said Royal Court; and humbly praying, for the reasons therein contained, that his Majesty will be graciously pleased to declare the said act of the States null and void, and that the produce of the said fund may not in future be diverted under any pretext whatsoever, from the objects of it's appropriation; the Lords of the Committee, in obedience to his Majesty's said order of reference, have this day taken the said Petition into their consideration, and are hereby pleased to order, that a copy thereof (which is hereunto annexed) be transmitted to the States of the said island of Jersey, who are hereby required forthwith to return their answer thereto in writing to this Committee:

Signed, Steph. Cattrell.

The following is the above-mentioned Petition.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

THE humble Petition of the Lieutenant Bailly and Jurats of your Majesty's Royal Court in your island of Jersey hereunto subscribed, being part of the assembly of the States of the said island.

S H E W E T H,

THAT in the year 1779, his Excellency General Conway, Governor of the said island, being then in his Government, and seeing the pressing necessity of providing effectually for it's defence against your Majesty's enemies, and finding great and almost insurmountable difficulties and hardships in raising the adequate contributions and expences towards it upon the inhabitants, did recommend to the assembly of the States of the said island the levying a duty or impost upon those spirituous liquors called Rum and Gin, as a means by which to alleviate the public burthen, and at the same time tending, by increasing the price of those liquors, to moderate the excessive use of them, so hurtful to individuals and prejudicial to the community. That in order to compass these desirable ends, a duty was laid on those liquors, and an application made to your Majesty for your royal approbation and confirmation thereof; in consequence of which your Majesty was graciously pleased to order the plan to be carried into execution, as appears from your order in Council thereupon dated the 3d. day of december 1779.

That this fund has proved highly beneficial, considerable sums having been borrowed upon it, and applied to the erecting Batteries and Magazines round the island, and procuring other means of defence; all which

will require farther expence to be compleated and kept up; and is at this day much incumbered.

That in the month of april in the aforesaid year 1779, several of the Clergy and Constables being fourteen in number, members of the said assembly of the States, having petitioned your Majesty in Council, complaining of an act of the said Royal Court, whereby the oath of Constable for the parish of St. Brelade had been refused to be administered to James Pipon, one of the Receivers of your Majesty's revenues in the said island, and praying that certain acts of the said Royal Court therein mentioned might be erased from the records; that the said Court should never presume in future to make either law, statute or ordinance provisional or durable on any pretext whatsoever; that your Majesty would be pleased to express your royal disapprobation at the conduct of the Lieutenant Bailly as President of the States; and finally that your Majesty would be pleased to consider and resolve, whether the office of Constable and representative of a parish was incompatible with that of Receiver of your Majesty's revenues in the said island.

That the Magistrates of your Majesty's said Royal Court having been directed to return to your Majesty's Council their answer to the said complaint; and thereupon the parties concerned having been heard before their Lordships, it was, upon their Lordships' consideration of the whole matter, decreed by your Majesty in Council on the 18th. of may 1781, that the office of Constable and Representative of a parish, and that of Receiver of your Majesty's revenues in the said island were not incompatible; but their Lordships did not find cause to pass upon the said Magistrates the censure prayed for by the said Petitioners.

That on the 31st. day of may 1782, at an assembly of the States, held on the request of Major-General Reid the commander in chief in the island, for some proposal respecting your Majesty's service, the Constable of the parish of St. Peter, being one of the Petitioners against the aforesaid act of the Royal Court, proposed an order to be made by the then assembly directing the sum of 1963 liv. 12 s. 6 d. money according to order, to be borrowed upon the aforesaid duty or impost on Rum and Gin, for his reimbursement of the expences incurred for the prosecution of the aforesaid Petition to your Majesty in Council against the said Royal Court.

That your Petitioners, justly alarmed at the danger of precipitately acquiescing to a motion of so much importance, as diverting the produce of this fund from the salutary objects of it's appropriation to those, which might be of a very contrary tendency, in order to have it maturely weighed before decided, demanded that the motion might be lodged au greffe for fourteen days, conformably to the standing law established by an order of your Majesty in Council dated the 28th. day of march 1771, directing " that when any thing is proposed to the assembly of the Sta-

tes, it shall be wrote down in the form in which it is meant to be
 passed, and there shall be debated; after which it shall be lodged au
 greffe for fourteen days at least, before it shall be determined, in order
 that every individual of the States may have full time to consider there-
 of, and the Constables to consult their constituents, if they judge ne-
 cessary, and that this delay be only dispensed with in cases of emer-
 gency, in which the safety of the island may happen to be immedia-
 tely concerned. »

That this legal and moderate request of your Petitioners who, as Ma-
 gistrates, make up the first of the three bodies which compose the States,
 was disregarded and over-ruled, and was, with illiberal asperity and ill-
 founded construction, founded out an attempt to breed confusion, and the
 motion, by the vote of nineteen against thirteen, was disposed of imme-
 diately and agreed to.

That your Petitioners would consider themselves wanting in duty to your
 Majesty and the inhabitants of the said island, if they neglected laying
 this matter before your Majesty and remonstrating, that they are appre-
 hensive this measure, and the arbitrary manner in which it has been car-
 ried, cannot but be attended with dangerous consequences; first, because
 it has been voted with the utmost precipitation and contempt of those
 formalities, which the law had wisely settled for rules in the publick de-
 liberations in this island; 2dly. because it appears to them, on dispassiona-
 tely weighing it in their own breast, an attempt to divert this fund
 from the salutary objects it was intended to answer to those of a quite
 opposite tendency, being a sure means hereafter of impowering the artful
 and designing, whenever they can secure a majority in the assembly of
 the States, to establish their particular views of power or interest on the
 publick expence and distress; 3dly. because nine members out of this ap-
 parent majority being of those who had carried up to your Majesty the
 complaint against the Royal Court, may with truth be said to have voted
 themselves this money, and, contrary to all forms of law and rules of
 justice or reason, to have decided in their own claim. And finally, because
 the Petition or Complaint, on which these expences had been incurred,
 was not carried up to your Majesty nor prosecuted on any publick order
 or sanction from the States, but was the effect of a private association
 of fourteen members of that assembly which were not, as it is pretended,
 even the majority of that held on the 13th. of march 1779, which then
 consisted of twenty eight members besides the President.

Your Petitioners therefore humbly pray, that your Majesty may be gra-
 ciously pleased to declare the said act of the States of the 31st. of may
 1782 null and void, and that the said fund may not in future become
 a source of division and disputes in the said island, your Majesty may be

further pleased to direct, that the produce of the same be not diverted under any pretext whatsoever from the objects of it's appropriation.

And your Petitioners as in duty bound shall ever pray.

Jersey, 20th. June 1782:

Signed, Joshua Pison Lieutenant Bailly:
Ed. Le Maître.
Ph. De Carteret.
Fr. Marett.
Nic. Messervy.
Ch. Payn.
Elias Pison.
Ph. Robin.
John Poingdestre.



Answer of the States to the foregoing Petition.

TO the Right Honorable the Lords of the Committee of Council for the Affairs of Jersey and Guernsey.

YOUR Lordships having been pleased, by your order of 17th. July 1782, to direct that a copy of a Petition presented to his Majesty in Council by the Lieutenant Bailly and several Jurats of the Royal Court of Jersey against an act past by the States of the said island on the 31st. of May 1782, should be transmitted to the States for their answer; the States, in obedience to your Lordships' said order, having duly considered the matter of complaint contained in the said Petition against them, humbly beg leave to lay before your Lordships the following reasons in vindication of their proceedings, and in defence of the constitutional rights of the assembly of the States, and of the privileges of the inhabitants of the island.

The substance of the complaint urged by the Petitioners consists of two heads. The first is, that the States, by their aforesaid act of the 31st. of May 1782, have directed the sum of 1963 l. 12 s. 6 d. money according to order, being the amount of expences incurred in the prosecution of a Petition to his Majesty in Council by several members of the States, respecting the election of the Constable of St. Brelade, to be defrayed by means of the publick fund arising from a duty imposed on Rum and Gin. The second is, that the States have come to this resolution precipitately, and without directing the motion to be lodged an greffe for fourteen days, that it might be maturely weighed and considered.

In order to lay before your Lordships in its proper light the proceeding of the assembly of the States on this occasion, and to enable your Lordships to judge of its propriety, it is necessary to have recourse to former facts which have an immediate connection with the matter complained of, and have been the original springs of contention. In the year 1776 James Pipon esq^r., one of the Receivers of his Majesty's revenues in the island of Jersey, was chosen Constable of the parish of St. Brelade by the votes of the inhabitants of the said parish, and took the oath accordingly.

At the end of three years, when the office of Constable became vacant, another election was appointed, and the said James Pipon was again legally chosen Constable of the said parish. On his appearing before the Court to take the usual oath, the Court refused to administer it to him, pronouncing the office of Receiver of his Majesty's revenues incompatible with that of Constable, and ordered another election, as appears by their act of the 27th. of february 1779.

The impropriety of this ordinance was at that time firmly, but without effect, remonstrated against. It was proposed in writing to the Court by way of conciliation, that the matter should be debated in the States, or else referred to his Majesty in Council; but no attention was paid to either proposal. In consequence of this act of the Court, another election was held in the parish of St. Brelade, and the inhabitants of the said parish again voted for the said James Pipon.

The Court, still persisting to reject M. Pipon, pass an act on the 9th. of march 1779, by which the eldest Centenier of the parish of St. Brelade was appointed to act as Constable, and to attend the States as representative of the said parish.

At the next meeting of the States, held on the 13th. of march 1779, the Centenier of the parish of St. Brelade attended the States by virtue of the Court's appointment, when it was resolved by act of the States of that day : " that, as the Constable of St. Brelade was not present, or " warned to be present in the States, and the Centenier not legally authorised, the assembly was incomplete, and therefore could not proceed " to business, " conformably to his Majesty's order in Council of the 28th. of march 1771, which directs that no law or ordinance whatsoever shall be pass but by the whole assembly of the States of the island.

The members of the States, who formed the majority of the assembly on this occasion, alarm'd at the consequences, which might result from this obstruction to publick business at a dangerous crisis, yet zealous to maintain the antient privileges of the inhabitants, and the constitutional rights of the assembly of the States, both of which were in a most pointed manner infringed upon by the acts of the Court before-mention'd, judged

it prudent to present an humble Petition to his Majesty in Council; praying that his Majesty would be most graciously pleased to order, that the acts of the 27th. of february and 9th. of march 1779 might be erased from the records of the Court; and that the Court should never presume for the future, on any pretext whatsoever, to make either law, statute, or ordinance, provisional or durable; and that it might please his Majesty further to express his Royal disapprobation of the conduct of the President of the States for having refused to submit to the deliberation of the States a motion proposed by one of the members and seconded by another member of the assembly; and finally, that the course of publick business might no longer be obstructed, the Petitioners pray'd that his Majesty would be pleased to consider and determine whether the office of Constable and Representative of a parish was incompatible with the office of Receiver of his Majesty's revenues in the island of Jersey.

This matter having been brought on before the Right Honorable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, on a day and at the time of the meeting of the house of Lords, some of their Lordships were call'd from the Council-board, and were by this means prevented from passing a judgment upon the whole subject of the Petition, as their Lordships were pleased at that time to declare; this point only being immediately determined; that the office of Constable and Representative of a parish is not incompatible with the office of Receiver of his Majesty's revenues in the island of Jersey.

The expence of prosecuting this Petition before his Majesty in Council; amounting to about 124 pounds sterling, is what the States have directed, by their act of the 31st. of may, to be paid by means of the duty on Rum and Gin, and is the subject of grievance which they are summoned to answer to before your Lordships. The establishment of this duty, as is represented by the Petitioners, was at the instance of his Excellency the Right Honourable General Conway governor of the island of Jersey, who, seeing the evil consequences of the immoderate use of spirituous liquors in the island; and knowing the heavy contributions which had already been raised on the publick, and were still necessary for the defence of the island and other publick exigencies, recommended to the States of the island an application to his Majesty in Council, for imposing a duty on Rum and Gin, as a means both of restraining the licentious use of these liquors; and of assisting the inhabitants in their publick burden.

For this purpose a plan was submitted by the States to his Majesty in Council, and his Majesty was most graciously pleased to approve thereof by his order in Council of 3d. of december 1779.

That the first and principal object of this fund, is the defence of the island, that it has already largely contributed thereto, and is a happy expedient for alleviating this publick burthen, is admitted. The States

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were fully sensible of its necessity and advantages in this respect, when they made their application to his Majesty for its establishment; they also knew that other publick exigencies, other general concerns might require and be entitled to the assistance of this general tax raised upon the inhabitants. The States therefore prudently reserved to themselves the exclusive application and disposal of this publick fund, by these general terms : - that the produce of the said duty shall be employed to - publick uses and services for the common good of the island and of - the inhabitants, and shall be at the disposal of the assembly of the States. -

This essential clause, this inherent condition of the establishment, confirmed by his Majesty in Council, determines absolutely a discretionary right to be vested in the assembly of the States, of applying the produce of this fund to any publick service.

It will not be difficult to prove to your Lordships, that the sum voted from this publick fund has been expended in a cause of the most publick nature, by men in a publick capacity, and in the prosecution of benefits common to all the inhabitants.

If the maintenance of the chartered rights and liberties of this island, if the securing to the inhabitants the ancient and valuable privilege of electing their own representatives, if to preserve the assembly of the States of the island, by whom the whole community is represented, free and independent of the controul of the jurisdiction, if the enforcing of his Majesty's most gracious order in Council of the 28th. of march 1771, that great and valuable bulwark of the liberties of this Country, if these be possessions worth contending for when usurped by illegal power, if these are publick considerations, it cannot be denied that the expences incurred in the prosecution of the Petition against the act of the Court ought to be defrayed by that community, the welfare of which that Petition was so evidently intended to promote.

It is very artfully suggested, that the Petition presented to his Majesty in Council by fourteen members of the States, in consequence of their act of the 13th. of march 1779, was not the act of a majority; that there were twenty-eight members present on this occasion besides the President. This ingenious state of the matter needs explanation to be well understood. It is proper to inform your Lordships that sixteen of the twenty-eight members present in the States disavowed the legality of the appointment of the Centenier of S. Brelade, twelve members only, (amongst whom were eight of the Royal Court who assumed that authority,) approved of the appointment. Here was a majority of four. It is true fourteen of the members only sign'd the Petition, the two others being deterred from joining in that measure, of which however they acknowledged the propriety : but still there remain'd a majority of two,

fourteen members of the States, who rejected the Centenier of St. Brelade, against twelve, who approved of the act of his appointment. This argument therefore needs but the most superficial examination to be refuted. Besides, the act of the States of that day could not be made but by a majority : it stands a positive evidence against this argument, and consequently proves beyond dispute that the proceeding of the Petitioners on this occasion was uniform with the act of the majority. Nor was this Petition the effect of a private association, as is pretended, but the proceedings of a majority on their act of the 13th. of march 1779, which declared the assembly of the States incomplete, and therefore incompetent to proceed to business. What other measure could be adopted but addressing his Majesty? No other publick act of the States could pass, until the parish of St. Brelade was duly represented or the point determined, without disobedience to his Majesty's order in Council of the 28th. of march 1771 before-mentioned. The majority therefore took the only step left to their option in this critical juncture, *viz.* of signing an humble Petition to his Majesty.

Every act of power in the island of Jersey, which tends to reunite the functions of the jurisdiction with those of the legislature, contrary to the established law of the island, must be of an alarming nature. The inhabitants have felt for many years, in silence, the cruel effects of that usurpation and unnatural union of powers, until at length, *driven to desperation*, they cried aloud for redress. This little country was brought to an alarming ferment. His Majesty judged it expedient, for the safety of individuals and the reestablishment of good order, to send forces to the island. This general insurrection was fortunately soon abated : the prudent and more considerate members of society knew that, however licentious and unjustifiable the acts of a populace are on such occasions, there were real grievances, just causes of complaint : and a favorable opportunity offering for redress, several Petitions were humbly presented to his Majesty who, in his great wisdom and paternal care, was most graciously pleased to give ear to the humble Address of his most loyal but oppressed subjects, and by his order in Council of the 28th. of march 1771 beforementioned, the great source of evil was happily removed for ever. Therein his Majesty is pleased to order. " That no laws or ordinances whatsoever, which may " be made provisionally, or in view of being afterwards assented to by " his Majesty in Council, shall be past but by the whole assembly of " the States of the said island. "

On this precious charter of *substantial* privilege and happy instrument of deliverance, the inhabitants of this island will ever look with unfeigned gratitude. And if the representatives of the people are the guardians of their privileges, if they are bound to maintain their own constitutional rights, it must ever be the indispensable duty of those repres-

mentatives to preserve that charter inviolate.

But it is urged with great confidence on the part of the Petitioners, that the defence of the island, that principal object of the fund, is of so much importance, so extensive in its demands, and so deserving of every encouragement, that no part of this duty ought to have been diverted from it. This argument, however inconclusive, has privileges well known to the States. The defence of this little frontier place against his Majesty's enemies is the first and most serious consideration of the publick. His Majesty's loyal and faithful subjects, the inhabitants of this island, sensible of the blessings they enjoy under a happy government, have ever been ready to expose their lives and fortunes for the preservation of those blessings. It has been the principal (and it may almost be said) only concern of the States since the island was threatened by the enemy. In the year 1779, before the duty on Rum and Gin was established, the immense sum of 34000 livres, money according to order, was raised by order of the States on the publick for the defence of the island. And since the establishment of the duty, upwards of 30000 livres have been borrowed upon the fund for that same object, by order of the States also, who, as representing the publick, are guarantees for the payment. It cannot therefore be imputed to the States, as the Petitioners insinuate, that the defence of the island has been in any respect disregarded, nor will it appear to your Lordships (as it is humbly conceived) that the payment of this sum interferes with or takes from the defence of the island, any more than the payment of one publick expence interferes with that of another: this duty, and the publick rate of the island being in fact one and the same fund, the mutual support and security of each other, produced by different channels from the same source, applicable to the same publick purposes, and both at the disposal of the assembly of the States.

That the duty on Rum and Gin has been considered in this light ever since its establishment; that it has been disposed of by the States, and with the consent of the Petitioners, to various publick uses, foreign to the defence of the island, may be shown by several instances; such was the reimbursement made from this fund to Ph. Fall esq^r. for cost of a sword presented to Admiral Arbuthnot, by the States, amounting to 908 livres 13 sous 4 deniers, money according to order. Such were the votes of the States on the 8th. of august and 26th. of september 1780, directing money to be borrowed on the duty on Rum and Gin for repairing the cloathing of the militia. Such was again a charitable allowance of 100 livres upon this fund to the widow of Tho. Picot, by act of the 21st. of april 1781, and numberless other expences of different kinds which have been approved of in the publick accounts of the Constables, and defrayed by means of the duty on Rum and Gin, with the consent of the Petitioners, and without the least hint of disaprobation on their part.

of its impropriety. These recent instances serve at once to prove the inconsistency of the Petitioners and the justification of the assembly of the States in their act of the 31st. of may 1782; this fund having been evidently considered by the whole body of the States, from its first establishment, as applicable to all publick uses and purposes.

But were it now his Majesty's will to confine wholly and exclusively the produce of this fund to the defence of the island different from the plan of its establishment : or admitting the Petitioners to be justly founded in their application, and that his Majesty, disapproving of the different acts and accounts past contrary to such an appropriation, was pleased to order the same to be annulled, what advantages would the Petitioners or the publick gain from the repeal of these acts? The publick rate must repay the publick fund of which it is at all events the guarantee; and the publick, without the prospect of a single advantage, is involved in unnecessary troubles and expences from the opposition of a few to the acts. Such are nevertheless the unfavourable consequences which the publick have to expect from the discordance of a few against the acts of the community.

The Petitioners have stated a numerical majority in this act of the States at their pleasure, well knowing that it could not be controverted by recorded evidence; but they have thought proper to omit, that, although nineteen members only approved of the act, such as it stood, there were but nine of the thirteen others who rejected it absolutely. At any rate they grant it to be the majority that voted the money. If an act of the majority of the States is not absolutely an act of the States; if nine out of thirty six can prevent it from being an act of the assembly, then six, then three, then one may be an impediment to their proceedings, and dreadful would be the disorder and evil consequences of such a system. A large sum of money may be voted for some publick purpose. The application of this sum will be contrary to the opinion, views, or interest of some of the members of the States, who will petition against it: before the point be determined, the whole sum may be expended. Will the majority then be liable to refund, what, in the discharge of their conscience, they have voted for some publick good? This cannot in justice be admitted. It will not surely be expected by the Petitioners that the members of the States, as individuals, are to remain charged with these expences. They do not suppose that the representatives of the publick, whose duty and functions are merely relative, who could not be moved by private or personal considerations in this proceeding, who, as a body can receive no advantage or detriment but what the publick must feel, who give up their time, devote their life, and often sacrifice their rest for the publick service, without the least emolument, advantage, or consideration whatsoever, and yet are bound by law to serve the publick: they do not suppose that these servants of the publick were to bear the

burthen of evils, removed by their honest exertions? Would the Petitioners have recommended to the publick of this island to refuse, with shameful ingratitude, the payment of what has been strictly laid out in their service? Would they wish to see the publick check the good intentions of their well-wishers, prevent the honest and well-disposed of their representatives (and it is to be hoped these will ever be the majority) from stepping forth in defence of their liberties, and thus break the heart of publick virtue? God forbid! The inhabitants of this island are neither insensible to good offices, nor reluctant in acknowledging them. In every instance where the assembly of the States have undertaken to defend the privileges of the island, to maintain their own rights, or to support the rights of the Royal Court against the attempts either of the Governor, the King's law officers, members of their own body, or private individuals, the publick has been taxed for the expence, and has readily paid the contributions.

In the year 1775 the inhabitants of the town and parish of St. Helier, forming a very large and respectable part of the community of the whole country, representing one fifth of the publick rate of the island, amongst whom were several members of the States, and of the Royal Court, presented an humble Petition to his Majesty in Council against the States, respecting the disposal of the general hospital. The States were summoned by the Right Honorable the Lords of the Committee of Council and returned their answer. On this occasion, the majority of the States, by their act of the 11th. of october 1776, ordered the sum of sixty pounds sterling to be raised on the publick, in order to support their rights before his Majesty in Council against the Petitioners, several of them present in the States and protesting against the majority. This did not prevent or invalidate the measures taken by the States: the publick not only paid the whole expence of this suit, but allowed a handsome gratuity of five hundred livres, money according to order, to the person who had undertaken the trouble to prepare the writings necessary for that purpose, as appears by the act of the States of the 12th. of may 1780. Six out of the nine present Petitioners agreed to these resolutions of the majority so similar to the act they complain of.

In the year 1748, a complaint was made to his Majesty in Council against the Royal Court, respecting their management of the duty on Brandy. The Royal Court, being summoned to answer, brought the matter before the States, who, in support of the Royal Court, appointed and authorised Thomas Le Breton gentleman, constable of the parish of St. Peter, to prosecute the affair before his Majesty in Council, and ordered the sum of thirty pounds sterling, or more if necessary, to be raised for that purpose upon the said duty on Brandy, as appears by act of the States of 28th. of october 1748.

In the year 1742, the Constables of the two towns and parishes of St. Helier and St. Brelade petitioned his Majesty in Council against an act of the States regulating the publick rate of the island. It was found necessary to appoint a Committee of the States to answer the Petition, when four of the Jurats and the President refused to act against the said Petition, upon which four other Jurats were appointed to act in the said Committee, and the sum of 1400 livres was ordered to be raised upon the duty on Brandy to support this suit, which not being found sufficient, the same Committee was authorised further to borrow as much money at interest as would be necessary to defend the proceedings of the States against seven of their own members who opposed them. All which appears by the acts of the States of the 21st. and 28th. of december 1742, of the 23d. of july 1743, and of the 9th. of may 1745.

By an act of the States of the 20th. of september 1744 the sum of twenty five pounds sterling is ordered to be taken upon this duty on Brandy, and put into the hands of John Le Hardy esquire, King's Procureur, to solicit before his Majesty in Council a Petition of the States.

In the same year 1744 the 10th. of december, the States appoint Thomas Le Breton gentleman, constable of the parish of St. Peter, their deputy, to defend the privileges of the inhabitants, against the pretensions of Lord Viscount Cobham governor of the island, and against those of the King's Procureur general, and of the Receiver general, who had obtained two orders from his Majesty in Council which the States considered as, and were found afterwards to be contrary to the privileges of the island; his Majesty having been most graciously pleased to grant them redress. The expences of this prosecution, which were very considerable, were all raised upon the publick by subsequent acts of the 12th of march 1744, of the 9th. of may 1745, and of the 1st. of june 1745.

In the year 1729, the Reverend M. Thomas Seale, having been instrumental in obtaining that a native of this island should be appointed Dean of the island in preference to a stranger, produced an account of his expences in this matter to the States, amounting to 53 pounds 8 shillings sterling. The States considering this point to be a privilege of the inhabitants, although he was not the deputy of the States or authorised to incur those expences, ordered the above sum to be repaid to him by all the Constables in their proportion to the publick rate of this island, as appears by the acts of the States of the 12th. of july and 1st. of november 1729.

In the year 1708, the States humbly petition his Majesty for the recall of the Officers of the Customs, and by their act of the 30th. of september 1709, the costs of this Petition and of the deputies sent over for that purpose, were raised by publick contributions:

By an act of the 2d. of october 1684, the States order that the expences of presenting certain Petitions to his Majesty shall be taken on the duty of *ancrage*, called, *la petite coutume*. By acts of the 19th. of march 1684, of the 2d. of february 1687, and of the 20th. of august 1691, and by several other acts of the States, near that period, very considerable sums of money are raised by different means on the publick for that same object now before his Majesty in Council, *viz.*, the support and maintenance of the laws and privileges of the inhabitants.

These and various other precedents, too tedious to enumerate, will (the States humbly presume) prove to the satisfaction of your Lordships, that the publick of this island or some other publick fund has, from time immemorial, been charged with expences incurred in the pursuit of what has been considered by the States as a publick benefit.

The last point which the States have to answer to before your Lordships is, that the States have come to their resolution of 31st. of may 1782 precipitately, and without directing the motion to be lodged *au greffe* for fourteen days, in order that it might be maturely weighed and considered.

By his Majesty's order in Council of the 28th. of march 1771, every thing proposed in the States (to be past into a law) is to be lodged *au greffe* for fourteen days unless the safety of the island should be immediately concerned. This clause immediately follows that by which his Majesty grants to the States the exclusive right of making laws and ordinances, and is there introduced for wise and good purposes. To make laws for the regulation of a community, to bind the actions of free subjects and to impose fines and penalties on the transgressors of the laws, are objects of too serious a nature, not to require the most mature consideration; and it is to be hoped it will ever be the most immediate care of the States of his Majesty's island of Jersey to use this great power with the utmost caution, and to proceed on so important a duty with all the consideration it deserves. But the vote of the States on the 31st. of may 1782 does not fall under this predicament; nor has it the least affinity to the making of a law, which requires that mature consideration. The ultimate effect of the resolution of the States was the payment of a debt already incurred; in consequence of the proceedings of a majority of the States, for expences disbursed two years before, and advanced by one of their members, who, at the request of the others, having undertaken and carried on this cause of the publick, without any acknowledgment for his time and trouble, for his own expences, or advance of money, produced his account, and vouchers to the States, as expences strictly disbursed.

It is insinuated by the Petitioners; that the business of that day was not known to them; but it is proper your Lordships should be informed, that

that six months before this act of the States past, the Petitioners, as well as all the members of the States, and the publick knew that at the next meeting of the States the account of these expences was to be produced for payment. Major-General Reid, then Commander in Chief of the island, was also informed of the subject, and at the request of two members of the States applied for a meeting of that assembly for this very purpose, which was not then granted; and was afterwards deferred for a considerable time on account of the indisposition of the Lieutenant Bailly, who had made known his intention of opposing this payment, having on the 23d. of January 1782, four months before the act of the States past, called together, in a private chamber, six of the Constables of the said island, and remonstrated to them on that subject.

The States could not therefore in justice put off a reimbursement already so long deferred, and under such circumstances. Neither has it been usual to delay matters of this nature, or put them off for further consideration.

The Petitioners know well, what has been the rule of proceeding in these cases ever since the order of his Majesty in Council of 28th. of March 1771; there are so many and such frequent instances, wherein the States have proceeded immediately to vote upon a subject although not concerning the immediate safety of the island, that it is surprizing the Petitioners had not looked into their own acts, before they ventured to tax the States of the island with disobedience of his Majesty's order in Council. A few instances among the number will serve to prove this fact.

By an act of the 18th. of July 1772, the Constables are directed immediately to reimburse the sum of 2112 livres 13 sous 2 deniers, money according to order, employed in building a market at St. Aubin.

By act of the 19th. October 1774, the Constables are directed to pay in the course of a month to Messrs. Durell and Gosset the expences advanced by them for the publick.

In the law-suit respecting the general hospital before-mentioned, the States by their act of the 11th. of October 1776 levied the sum of 60 pounds sterling immediately; and on its first proposal, to be remitted to the Solicitor of the States in London.

By act of the 24th. of May 1777, the registry was ordered to be repaired at the publick expence of the island, and without previous consideration.

By act of the 20th. of October 1779, the King's Procureur is reimbursed of the sum of 281 livres 5 sous 8 deniers, money according to order, for refreshment given to the troops on the 1st. of May 1779.

By the acts of the States of the 8th. of August and 26th. of September 1780 before-mentioned, the expences of repairing the cloathing of the militia, and the allowance granted for the rest of the cloathing are both voted from the publick fund, and agreed to on the first proposal.

H.

And on the 20th. of August 1781, on the proposal of his Excellency General Conway, the sum of 666 livres 13 sous 4 deniers, money according to order, is voted to M. Thompson for the instruction of the boys of the island in military exercises, and is to be raised on the duty upon Rum and Gin.

These, and an infinite number of other instances (which might be quoted) serve to prove that the restriction, directed by his Majesty's said order in Council, has always been considered by the States as relative to the enacting of laws or ordinances, which cannot be too well canvassed before they are enforced, but no ways affecting the payment of accounts, or other matters in the ordinary course of business.

From these and other authorities before-mentioned, from the facts which have been before stated, and the arguments urged in defence of the conduct of the States, the States humbly hope that it will appear to his Majesty, and to your Lordships, that the act past by the majority of the States on the 31st. of May 1782 is a legal act of the assembly of the States of the island, past agreeably to the powers vested in the States by his Majesty, exercised with the usual formalities on such occasions, and exerted for the support of one of the most precious privileges of the inhabitants of the island; and therefore pray that his Majesty will be most graciously pleased to dismiss the Petition of the Lieutenant Bailly and eight Jurats of the Royal Court, and to order that the publick business of the island may not for the future be interrupted by any inconsiderate measures of a few individuals, against the opinion of a majority.



AT THE COURT AT St. JAMES'S, THE 18th. OF MAY 1782.

P R E S E N T,

T H E K I N G ' S M O S T E X C E L L E N T M A J E S T Y,

L O R D P R E S I D E N T.

G E N E R A L C O N W A Y.

D U K E O F P O R T L A N D.

M. S E C R E T A R Y F O X.

L O R D L O U G H B O R O U G H.

R I C H A R D F I T Z - P A T R I C K e s q.

W H E R E A S there was this day read at the board a report from the Right Honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 24th. of this instant in the words following, *viz.*

Your Majesty having been pleased, by your order in Council of the 26th. of June 1782, to refer unto this Committee the humble Petition

of the Lieutenant Bailly and Jurats of your Majesty's Royal Court in the island of Jersey, whose names are thereunto subscribed (being part of the assembly of the States of the said island) against an act passed by the States of the said island on the 31st. of may 1782, directing the sum of 1963 livres 12 sous 6 deniers, money according to order, to be borrowed upon the duty, or impost on Rum and Gin, for the reimbursement of certain expences incurred in the prosecution of a Petition to your Majesty in Council, complaining of an act of the said Royal Court, whereby the oath of Constable for the parish of St. Brelade had been refused to be administered to James Pison, one of the Receivers of your Majesty's revenues in the said island; and humbly praying for the reasons therein contained, that your Majesty would be graciously pleased to declare the said act of the States null and void, and that the produce of the said fund may not in future be diverted, under any pretext whatever, from the objects of its appropriation: the Lords of the Committee, in obedience to your Majesty's said order of reference, did on the 17th. of july 1782 take the said Petition into their consideration, and thought proper to direct that a copy thereof should be transmitted to the States of the said island of Jersey, for their answer; and the said States having, in pursuance thereof, returned their answer in writing to this Committee; their Lordships this day resumed the consideration of the whole matter, and having heard counsel on both sides, do agree humbly to report as their opinion to your Majesty, that the said act of the 31st. of may 1782, having been passed contrary to the form prescribed by your Majesty's order in Council of the 28th. of march 1771, it may be adviseable for your Majesty to declare the said act null and void, and to order and direct the Royal Court to cause the said act to be erased out of the records of the said island.

His Majesty, taking the said report into consideration, is pleased with the advice of his Privy Council to approve thereof, and accordingly to declare that the said act of the 31st. of may 1782, having been passed contrary to the form prescribed by his Majesty's order in Council of the 28th. of march 1771, is null and void: and his Majesty doth hereby order that the Bailly and Jurats of the Royal Court of the said island of Jersey do cause the said act to be erased out of the records of the said island, and that none may pretend ignorance of his Majesty's pleasure hereby signified, the said Bailly and Jurats are to cause this order to be forthwith registered and published in due form in the said island.

Signed, *Steph. Cottrell.*

AT THE COUNCIL CHAMBER, WHITEHALL,

The 20th. of may 1783.

By the Right Honourable the Lords of the Committee of Council for the Affairs of Jersey and Guernsey.

His Majesty having been pleased, by his order in Council of the 31st. of january last, to refer unto this Committee the humble Petition and Representation of the Lieutenant Bailly and the Jurats of his Majesty's Royal Court in the island of Jersey thereunto subscribed, complaining of a vote passed in the assembly of the States of the 10th. of july 1782, by a majority of the Clergy and Constables, whereby an individual member, a Constable of a parish, is constituted guardian of the privileges of the inhabitants; and also complaining that on the 9th. of october 1782, the same majority of the Clergy and Constables, who had before seized upon a publick fund to defray certain expences incurred by them, moved, and at the same time enacted, that a sum of money should directly be raised upon the inhabitants, for the enforcing and supporting their measures against the Representation of the Royal Court; and humbly praying that his Majesty will be graciously pleased to enact and make sundry orders and regulations in the premises, or to grant them such relief as to his Majesty shall seem just and equitable; the Lords of the Committee, in obedience to his Majesty's said order of reference, have this day taken the said Petition into their consideration, and are hereby pleased to order, that a copy thereof (which is hereunto annexed) be transmitted to the States of the island of Jersey, who are hereby required forthwith to return their answer thereto in writing to this Committee.

Signed, *W. Fawcener.*

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

THE humble Petition and Representation of the Lieutenant Bailly and the Jurats of your Majesty's Royal Court in the island of Jersey hereunto subscribed,

SHEWETH,

THAT your Petitioners, who hold by Royal Grant the sacred trust of administering justice to their fellow-subjects, are also by the institutions

of King John, as well as by subsequent charters granted by your Majesty's Royal Predecessors, the special guardians and protectors of the laws, privileges and liberties of their country, being sworn by their oath of office to maintain and defend the same.

That, in consequence of the important trust reposed in them, they have uniformly endeavoured to discharge the laborious duties of their office with the purest zeal and strictest impartiality; but notwithstanding their honest endeavours to promote the good of your Majesty's service and the interest of the publick at large, a spirit of faction having most unfortunately arisen in this island, pregnant with the worst and most dangerous consequences, your Petitioners think themselves bound to recur to your Majesty for your gracious interposition, and beg leave humbly to lay the following facts for your Royal consideration.

That by a vote passed in the assembly of the States the 10th. of july 1782, by a majority of the Clergy and Constables, an individual member, a Constable of a parish, is constituted guardian of the privileges of the inhabitants, substituting in the room of the chief Magistrate, in the room of the Jurats of your Majesty's Royal Court, and in that of your Procurator and Advocate General, a private person without your Majesty's Royal sanction having been first obtained, and without any previous examination or formality whatsoever.

That on the 9th. day of october 1782, the same majority of the Clergy and Constables who had before seized upon a publick fund to defray their own expences, incurred by their litigiousness, moved, and at the same time enacted, that a certain sum of money should directly be raised upon the inhabitants for the enforcing and supporting their unjust measures against the Representation of the Royal Court.

That this act was passed immediately on its being moved without remaining the fourteen days, as prescribed by law, for more mature consideration; by which means the Constables whose duty it was, and several of whom wished, to consult their constituents, were deprived of the opportunity of doing it.

That the Clergy for the most part were the principal instigators, who thus combined in voting away the money of the publick, though they do not contribute for their benefices to the exigencies of the States, and even refuse contributing for what relates to the defence of the island. And they are the only body having seats and voting in the States without being elected by the people, or being bound by any oath, although they compose one third of the whole assembly of the States.

That on the aforesaid 9th. day of october 1782, the same majority, after having framed their answers to the aforesaid Representation of the Royal Court, instead of signing it themselves, as has been done on most

occasions, and ought to have been done in this particular case, directed the Greffier to sign it in the name of the States, meaning thereby to mask the truth, and to make an act, which was the effect of a party or faction, pass for the whole act of the whole body of the States: that not content with this, the said answer was surreptitiously taken away, and refused to the Lieutenant Bailly, the president of that assembly, though he is the person by whose channel it has always been customary to transmit or receive Representations or other things of a publick nature.

That the Lieutenant Bailly, though he is the chief Magistrate in your Majesty's island of Jersey, though he is the first minister of justice there, and presides in all judicial and civil matters both in the Court and States, though he has the honour to represent your Majesty's sacred person, the respect and deference, which are due to him in the post which he occupies, have been on several occasions most grossly violated, and even attempts have been made to circumscribe that power and authority, which flows immediately from the crown as the fountain-head.

That the assembly of the States being appointed to be held on the 30th. October 1782, at a time there subsisted before the Royal Court a contested election for the place of Constable of the parish of St. Martin, the eldest Centenier of the said parish was summoned to assist in the States agreeable to law and usage, being in default of the Constable equally a representative of his parish, and being qualified thereto both by the oath and the nature of his office.

That notwithstanding the law and usage, the same faction usurping a judicial power (which, by the Constitution and Royal Charters, and by orders and regulations of the Royal Commissioners, is vested in the Court alone) decided that the Centenier was not qualified to sit as a member in that assembly; and that the late Constable should attend, notwithstanding his formal and unequivocal discharge by act of the Royal Court, agreeable with the law and usage, and notwithstanding the express letter of the law; and although he was so far from being an intended representative by that parish in future, that in the last returned election, he had not one single vote.

That the States, although by their constitution and the powers since vested in them, are not authorised to make any permanent law, and their power extends only to the making provisional and temporary orders, whose duration are limited, yet the same spirit of party which has exerted itself in the acts complained of, has been extended to efforts for the changing the method of holding and convening the States in opposition to an order in Council of the 2d. July 1619, and in absolute contradiction to an other order of the 17th. December 1679.

That it is evident the present faction and spirit of party is brought to

this pass by reference, chiefly because the Magistrates have represented to your Majesty the dangerous consequence which must ensue from an invasion on a publick fund, for the purpose of favouring particular views of power or interest; a principle of action which unless it is rooted up, must inevitably bring ruin upon the country from the sources which have been intended for its welfare and prosperity; for it had been equally in the power of the Magistrates, had they not been more conscientious, to defray their own expences in these disputes out of the old impost, the administration and government whereof is vested in them by Royal Grant of King Charles the second of the 14th. day of april in the 21st. year of his reign.

That by the above unjust and unconstitutional method of proceeding, every measure being carried by party, and the just remonstrances of the Magistrates being disregarded, a parish deprived of a representative by the arbitrary relolve of faction contrary to law and equity, your Petitioners have thought that they could not, with any propriety or decency, give their attendance to the States untill your Majesty's pleasure was known, except it should be found by the Commander in Chief necessary for the defence of the island, as it might otherwise appear they connived at or gave countenance to the most unjust and impolitic acts.

That some people have been industrious in endeavouring to spread abroad and foment the same spirit of faction, which has blazed forth in publick harangues in which your Majesty's Royal Court has been even accused of tyranny and oppression. Some of the Clergy whose sacred functions should have inspired them with a spirit of union and moderation, shewing themselves foremost in disputes and elections: not content with stirring up parties in their own parishes, but throwing off the cloak of peace and abandoning their flocks, and going even in other parishes degrading the sanctity of their character by the most undignified and unwarrantable conduct in electioneering.

Your Petitioners therefore humbly pray that your Majesty will be graciously pleased to enach such orders and regulations for relief in the premises, as to your Royal wisdom shall seem just and equitable, that for the clearing up the character of your Petitioners (which as Magistrates ought to be unimpeached) your Majesty will be graciously pleased to declare whether they have violated the character of guardians of the privileges of their country, or forfeited their right to that exalted title; and that should a further investigation be judged necessary, your Majesty will be graciously pleased to give the proper directions to have their conduct examined.

That your Majesty will make known your Royal will and pleasure; whether the act made of the aforesaid 9th. october, ordering money to be livied upon the inhabitants is illegal, and whether it ought to be

terased out of the records, whether it may not be adviseable to order, that in case of complaints to your Majesty or answer thereto the complainants shall sign their own representation, that it may fully and clearly be known from whence and from whom it comes. And whether what is transacted in the States should not be transmitted to your Majesty by the President, or by any one member of that assembly: and whether it may not be expedient to order that proper respect and deference be shewn to him who is appointed to represent your Majesty's Royal person, as is already directed in regard to him as President of your Royal Court by an order in Council of the 19th. of may 1671. Whether in cases of disputes concerning the authority of the Bailly or of the Jurats in the assembly of the States, it may not be adviseable to order that neither of the parties do proceed against the other, but refer the matter in dispute to your Majesty, as is directed by the orders of King Henry the seventh, and by another order in Council of the 15th. june 1618, in cases of disputes between the Governor and the majority of the Royal Court or between the former and the Bailly.

That your Majesty will be graciously pleased to give the necessary orders, concerning that most illegal act, passed by an incomplete number in the States, by which a Constable of a parish, though politically dead and discharged according to law, is made to receive and continue in office. That your Majesty may enforce that part of an order in Council dated the 17th. december 1679, directing that no change or alteration shall be made in the manner of holding and convening the States.

And to remedy the inconveniences and bad effects which must result from the Clergy's meddling in elections, that your Majesty will be graciously pleased to extend to them the same law of King Henry the 7th. which forbid the Governor or Jurats to intermeddle in the elections of Constables; and further to enforce the same by some suitable penalty.

Your Petitioners however entirely trust to your Majesty's superior wisdom and justice, confident that they shall be found upon investigation to have acted a just, upright, and patriotick part, in the exercise of the most laborious as well as the most important functions, for which they receive no salary, and it is by the most conscientious motives that they are called upon again to importune your Majesty with this their most humble representation for which they beg your Royal indulgence.

And your Petitioners as in duty bound shall ever pray.

*Jersey, january
20th. 1783.*

*W. Ch. Lempriere, Lieutenant Bailly.
Joshua Pipon.
Phil. De Carteret.
F. Marett.
Nic. Messervy,*

*Ch. Payn.
Elias Pipon.
Ph. Robin.
John Poingdestre.*

The following is a Petition signed by 69 inhabitants of Jersey, which the Lords of the Committee transmitted to the States with an order similar to that which precedes the foregoing Petition.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

The humble Petition of several inhabitants of the island of Jersey hereunder subscribed.

S H E W E T H,

THAT disputes have arisen, and unfortunately still subsist, between the different Estates which form the assembly called the States of the said island, and your Petitioners are much concerned to see daily opening in that assembly the source of still greater dissensions, which cannot but prove highly prejudicial to the true interest of the country.

That Representation having been made to your Majesty by the Magistrates of the Royal Court, and by the two other Estates, your Petitioners do not mean to enter into the merits of the case, but only to represent to your Majesty their fears and apprehensions in consequence of an act lately passed by the majority of the Clergy and Constables, which appears to your Petitioners to be an invasion of their property.

That your Petitioners had before seen, with much concern, a fund, which your Majesty had been graciously pleased to establish for the defence of the island, appropriated by the majority of the said Clergy and Constables, to defray the expence of law-suits, and to promote differences, which already too much prevailed in the assembly of the States; but as that matter is now under the consideration of your Majesty, your Petitioners forbear entering upon it, only beg leave to observe that the same party which brought on those impolitic measures, fearing your Majesty may not approve of their proceedings, have given up their first system of reimbursing themselves, but have made a still more dangerous attempt, by endeavouring to subject the property of the inhabitants to their caprice, having, by an act passed the 9th. October 1782, ordered that a certain sum shall be immediately raised upon the inhabitants, intimating at the same time their intentions of raising what they may further have occasion for.

That your Petitioners look upon that act as highly oppressive, illegal, and unconstitutional, the forms prescribed not having been attended to,

the said act having been resolved upon immediately and passed into a law the first time of its being moved, notwithstanding the opposition of the Magistrates of the Royal Court, without the Constables having been able to consult their constituents, although some of them desired time might be allowed them to do it, and in violation of an order of your Majesty in Council of the 28th. of march 1771, wherein it is laid down as a rule, that, when any thing is proposed in the said assembly, it ought to lay under consideration for fourteen days at least, to prevent the ill effects of precipitation, and that the Constables may have time to consult their constituents when they think it necessary.

That your Petitioners find great cause to be alarmed at proceedings so opposite to the laws established, in a point in which publick liberty is so essentially interested, and cannot but dread the worst of consequences, if in disputes arising between the different Estates, (which often may originate in party zeal,) any majority in this subordinate assembly had a right to invade, without controul, the property of the inhabitants, and to impose upon them the contributions they should judge expedient, or which they might find necessary to promote their views of interest or ambition, and which, in all possible cases of usurpation or abuse of power, must lead to oppression.

That by an order of Council, dated the 20th. april 1774, your Majesty thought proper to annul a tax ordered to be raised by the assembly of the States of the said island, because your Majesty's Royal approbation had not been first obtained, thereby confirming the ancient orders and regulations of your Royal predecessor King Henry the seventh, by which it is directed that no taxes or impositions are to be raised upon the said inhabitants without the King's express commands.

That your Petitioners, from their rank and property in the said island, are liable to contribute considerably in the publick taxes, and are proportionably concerned that the same be not exacted, but in cases of real necessity, and for purposes conducing to the service and true interest of the country; and therefore find themselves called upon by duty and interest to withstand every attempt, which by a contrary tendency threatens inconvenience to the inhabitants.

Your Petitioners therefore humbly pray, your Majesty will be graciously pleased to take the same into your Royal consideration, and order that the said act of the States, of the 9th. october 1782, be declared null and void, and be erased out of the publick records.

That your Majesty will be pleased to direct, that the assembly of the States of the said island shall not in future lay any imposition or taxes, or order any sum or sums of money to be levied upon the inhabitants without your Majesty's approbation being first obtained, except for the im-

mediate defence of the island, and the usual and ordinary exigencies, which the maintenance of the poor and the particular interest of the island may render absolutely necessary; in which cases no act shall have the force of law without the concurrence of the majority of each of the Estates respectively, and after the Constables shall have consulted their constituents; for which purpose a sufficient time shall be allowed, as prescribed by your Majesty's said order of Council of the 28th. of march 1771. That your Majesty will be pleased to cause to be enacted such other regulations and ordinances for the welfare and good government of the island as in your Majesty's wisdom will appear most conducive to that end.

And your Petitioners, as in duty bound,
shall ever pray.

Jersey 27th. january
1783.

Signed by sixty-nine inhabitants:

This Petition was followed by one in opposition to it, signed by 1036 of the principal inhabitants in point of weight and property in the island, which will appear in its place.



Act of the States issued in consequence of letters received from M. Sayer announcing, that the attendance of some Agent on the part of the States before the Committee of Council was requisite.

AUX ÉTATS DE L'ISLE DE JERSEY.

L'AN mil sept cent quatre-vingt-trois, l'onzième jour de juin, M. le Lieut. Bailli ayant présenté à l'Assemblée des États deux ordres de la part des très-honorables Seigneurs du Comité du Conseil de sa Majesté, l'un & l'autre datés du 20 mai 1783, adressés aux États pour y faire réponse: après lecture d'iceux, il a été ordonné que lesdits ordres seront logés au greffe pour être murement considérés; & afin de dresser une réponse aussitôt qu'il sera possible, conformément aux ordres desdits Seigneurs, Ed. Le Maître, David Patriarche & Nicolas Fiott, écuyers, du corps de la justice, M. Le Doyen, M. Le Couteur & M. Sivret, du corps du clergé, & MM. les Connétables de S. Hélier, S. Brélade & S. Jean, du corps des Connétables, sont requis & autorisés de s'assembler pour préparer la réponse des États, comme sus est dit, afin de la produire ensuite aux États, pour leur approbation; sur ce que dessus le chef Magistrat ayant proposé la question, laquelle a été approuvée, il a en outre été trouvé convenable, sur la proposition qui a été faite en même temps, par le

rév. M. Le Couteur, d'assurer que vû qu'il a paru à l'assemblée, par une lettre de Henry Sayer, écuyer, solliciteur des États à Londres, que l'examen de la petition de plusieurs memdres de la Cour civile de cette île, qui intéresse le public & les États, est appointée au 20 de ce présent mois, & qu'il y a en outre plusieurs affaires de la plus grande importance, actuellement devant sa très-excellente Majesté & les très-honorables Seigneurs de son Conseil, qui regardent les anciens privilèges, libertés, franchises & immunités des habitans de ce pays, & les droits de l'assemblée des États; les États ont cru qu'il étoit de leur devoir indispensable, dans les conjonctures présentes, d'appointer, aux frais de l'île, un député, comme il a été pratiqué de temps immémorial dans des occasions pareilles; à quel effet Jean Dumaresq gent., Connétable de la paroisse de S. Pierre, est présentement nommé, appointé & autorisé pour passer immédiatement en Angleterre, afin de paroître en cette qualité devant sa très-excellente Majesté & les très-honorables Seigneurs de son Conseil pour le soutien des objets importants sus-mentionnés, pour veiller à ce que les différens points, qui intéressent les États & le public, soient fidèlement représentés devant notre débonnaire Souverain, & sur-tout pour faire tous ses efforts pour obtenir, de sa Majesté, les moyens de rétablir le bon ordre & la tranquillité parmi les habitans de cette île; quel député doit tenir correspondance avec le susdit Comité, & leur donner avis de temps à autre du progrès des affaires, afin que par leur moyen les Etats en soient informés.

Ph. De Carteret, Greffier.

M. Dumaresq embarked for England the day after this act passed, and upon his arrival in London. presented the following Petition.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

The humble Petition of John Dumaresq, deputy of the States of your Majesty's island of Jersey,

SHEWETH,

THAT by an act of the States of the island of Jersey, dated the 11th day of june 1783, your Petitioner is appointed deputy of the said States, and sent over in that capacity, as well upon various matters of great importance touching the ancient priviledges and liberties of the inhabitants, and the rights of the assembly of the States depending before your Majesty, and the Lords of your most honourable privy Council, as also to use his utmost endeavours to obtain from your Majesty the means of restoring good order and tranquillity among the inhabitants of the said island.

That by virtue of the powers so vested in him by the States, your

Petitioner has thought it his indispensable duty most humbly to represent to your Majesty :

That by your Majesty's order in Council of the 28th. of march 1771, no laws or ordinances whatsoever, made in the island of Jersey, can be passed but by the whole assembly of the States of the said island.

That there now subsists, among other matters in dispute between the States and the Royal Court, a question respecting the legality of the old Constable of Saint Martin's attendance in the States in opposition to that of one of the Centeniers of the said parish, the result of which may render void and ineffectual any measures adopted by the States upon the variety of subjects, which it now becomes their particular duty to enter upon.

That by two orders from the Lords of the Committee of your Majesty's most honourable privy Council, dated the 20th. day of may 1783, (a) two Petitions containing fundry points, which affect the constitution of the States of the island, are transmitted to the States, and the States are directed by their Lordships to return their answer in writing thereto.

That by the effect of a late order of your Majesty in Council, bearing date the 25th. of june last, the States are in duty bound to recall all acts which have been passed by them within three years, and have not undergone certain formalities prescribed in your Majesty's said former order of the 28th. of march 1771.

That among these are comprehended a number of acts which have been passed for the ordinary course of business, such as the appointment of Committees, the regulation and payment of publick accounts, and various other matters, which it will be highly expedient to bring on immediately before the States, with due attention to the formalities as above prescribed, in order that the same may be passed into lawful acts of the States.

That as the different matters above-mentioned cannot legally, and consistently with the rule established by your Majesty's said order of the 28th. of march 1771, be debated and determined unless the assembly of the States is found complete; and whereas to proceed with uncertainty upon these important matters, requiring long and laborious discussion, would prove highly prejudicial to the community and distressful to the States.

It is most humbly submitted to your Majesty, that your Majesty will be graciously pleased to order provisionally, and without prejudice to the right of either party, that either the Constable or the Centenier of the said parish of St. Martin may be considered for the time being as the representative of the said parish; or (as in your Majesty's great wisdom

(a) The Petition of the Court and the Petition, of 69 inhabitants before-mentioned.

shall seem meet) that the States may be at liberty to sit and proceed to business without the Constable of St. Martin, in the same manner as if the States were compleat, until the said question between the Royal Court and the States shall be decided, or until the appeal which has been depending before your Majesty in Council, ever since the 10th. of december 1782, concerning the election of the new Constable for the said parish, shall be determined; and that the respondent in such appeal be ordered to appear forthwith, and that the parties do proceed to the hearing of such appeal without delay, that the said parish may be duly represented in the States of the said island.

And your Petitioner, as in duly bound, will ever pray, &c. &c.

London, july 4th. 1783.

J. DUMARESQ.

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*Charles Lempriere esquire, the late Lieutenant Bailly, who was then in London, petitioned the Lords in the following manner.*

To the right honourable the Lords of the Committee of his Majesty's most honourable privy Council for the Affairs of Jersey and Guernsey.

*The humble Petition of Charles Lempriere esquire, a principal inhabitant, and late Lieutenant Bailly of the island of Jersey,*

*SHEWETH,*

**T**HAT on the 11th. june 1783, the States of the island were assembled by the Lieutenant Bailly for the purpose of laying before them two orders of the Lords of the Committee of his Majesty's most honourable privy Council, dated the 20th. day of may 1783, by which the States are ordered to return answers to two Petitions from the Royal Court and inhabitants of the said island, praying redress against certain acts of the States.

That the Lieutenant Bailly accordingly, on the said 11th. june, laid those orders before the States, that they might return their answer thereto.

That by the constitution of the said island, every matter proposed in the States ought to be submitted to the vote by the Lieutenant Bailly as president of the assembly.

That after reading the said orders and the Petitions annexed thereto, one of the Clergy moved, that John Dumaresq, gentleman, should be deputed, at the publick expense, to go to England to defend the States with respect to the matter alledged in those Petitions and other matters alledged to be then depending.

That the Lieutenant Bailly considering this (as your Petitioner humbly apprehends it was in truth) highly improper; and it being irregular to connect propositions, in themselves distinct, did therefore simply propose to submit to the votes of the assembly, that they should take measures to comply with the said orders.

That, notwithstanding the question for the appointment of the said M. Dumaresq to defend the States at the publick expence had not been proposed or submitted to the votes by the Lieutenant Bailly (which, according to the usages and constitution of the States, it ought to have been before the same could be taken into consideration, or decided by vote) 16 members out of 30 then present in the States made an act, whereby they ordered not only that a Committee should be appointed to prepare the answers of the States, but by which also (upon the proposal of the reverend M. Le Couteur, and not of the President) they appointed John Dumaresq gentleman, constable of the parish of St. Peter, to go immediately over to England to appear in that quality before the King in Council, for the support of those important objects, and to watch that the different points, which interest the States and the publick, should be likewise faithfully represented.

That 3 Jurats, 8 Clergy and 5 Constables concurred in this act, and 7 Jurats, 1 of the Clergy, 6 Constables voted only upon the question proposed by the President, by which it is observable that it was carried by only 16 against 14, and that the majority of the representatives of the inhabitants voted against it.

That the said M. Dumaresq was one of the 5 Constables who voted for his own appointment at the publick expence, and M. Richardson, who had been discharged from the office of Constable, was also of the number of those who voted for the act; so that in case the said M. Dumaresq and M. Richardson had not been permitted to vote, (and which your Petitioner humbly apprehends they ought not to have been) the Lieutenant Bailly, having a casting vote, the majority of the whole assembly voted against the said act.

That your Petitioner, and several other inhabitants of the said island have been, and are much concerned to see dissensions between the different Estates, which form the assembly called the States, daily increasing, and which they fear will continue so long as any of those Estates are permitted to defray their own expences out of the pockets of the publick, which your Petitioner apprehends is altogether unreasonable, and manifestly tends to the great injury and oppression of the inhabitants of the island.

That your Petitioner apprehends the act, by which the said John Dumaresq is appointed deputy at the publick expence, is unconstitutional in

asmuch as it was passed expressly contrary to your Lordships' late order in Council, the same not having been left with the Greffier 14 days, as your Petitioner apprehends an act tending to bring considerable expence upon the publick ought by law to have been.

That several of the most respectable inhabitants of the said island have already petitioned his Majesty against this attempt to burthen them with charges, to which they are not, and ought not to be made liable.

And your Petitioner also begs leave to remark, that the said John Dumaresq has very lately, in such his pretended character of deputy of the States, presented a Petition to your Lordships, by which it is stated that the very assembly of the States, by which he is supposed to be deputed, is incomplete.

Therefore (and inasmuch as if your Lordships shall attend to the matter of any Petition presented by the said John Dumaresq, as deputy for the States, it may be contended that the publick are pledged to defray his expences,) your Petitioner humbly prays that your Lordships would be pleased not to make any order, or give any relief or directions upon any Petition or Petitions presented, or to be presented to your Lordships by the said John Dumaresq, as such deputy; and that your Lordships would be pleased to declare that the act, by which the said John Dumaresq is supposed to be appointed such deputy, as aforesaid, is irregular, and therefore null and void; and with respect to the question concerning the attendance in the States of the representative of the parish of St. Martin, mentioned in a Petition of the said John Dumaresq, now before your Lordships, (such matter having been already represented to your Lordships by the Royal Court) your Petitioner humbly prays that your Lordships will make such provisional order thereon, as may be thought most conducive to the publick good; and your Petitioner also prays that he may on thursday next be heard by Council in support of this Petition, he having delivered a copy thereof to the agent of the said M. Dumaresq.

And your Petitioner shall ever pray, &c.

CH. LEMPRIERE.

*M. Lempriere's prayer to be heard by counsel was rejected, and on the thursday following M. Dumaresq appeared before the Lords of the Committee. He was asked by the Lord President for the act of his députation, which, said the President, he was informed by a private letter from the Lieutenant Bailly was not under the seal of the island. M. Dumaresq observed, that the Lieutenant Bailly had refused to put the seal to this act in order, as he conceived, to deprive the States of the means of answering his own complaints against them: but that this act was nevertheless an act of the States. And if it was not admitted as such by their Lordships, owing to that informality, the island must naturally,*

*naturally, said he, become subject to the controll of one man. For if the same person can only call the States together : if he only can put questions to the votes in the States ; and exercises the right of rejecting those which he dislikes : and if after all he can render of no effect what has been voted by the States , that body, and the whole community must become subservient to that man's will.*

*The Lords of the Committee did not admit M. Dumaresq as deputy of the States for want of the seal's being annexed to the said act of deputation : but the following order was issued upon his Petition.*



AT THE COURT AT St. JAMES'S, THE 11th. OF JULY 1782.

P R E S E N T,

T H E K I N G ' S M O S T E X C E L L E N T M A J E S T Y,

L O R D P R E S I D E N T.

L O R D N O R T H.

D U K E O F P O R T L A N D.

L O R D A M H E R S T.

E A R L L U D L O W.

M<sup>r</sup>. S E C R E T A R Y F O X.

**W** H E R E A S there was this day read at the board, a report from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, in the words following, viz :

„ Your Majesty having been pleased by your order in Council of the  
 „ 31st. of January last, to refer unto this Committee, the humble Petition  
 „ and Representation of the Lieutenant Bailly and Jurats of the Royal  
 „ Court in the island of Jersey, thereunto subscribed, complaining of sun-  
 „ dry proceedings of the States of the said island, and, among others, of  
 „ their refusal to admit the eldest Centenier of the parish of St. Martin  
 „ to sit as a member in the assembly of the States, and ordering the late  
 „ Constable for the said parish to attend notwithstanding his formal and  
 „ unequivocal discharge by act of the Royal Court, during an interval oc-  
 „ casioned by a contested election for the place of Constable of the said  
 „ parish; the Lords of the Committee having, in obedience to your Ma-  
 „ jesty's said order of reference, taken the said Petition and Representation  
 „ of the Royal Court into consideration, thought proper to direct by their  
 „ order, bearing date the 20th. of May last, that a copy thereof should be  
 „ transmitted to the States of the said island of Jersey, and to require the  
 „ said States forthwith to return their answer in writing to the said Peti-  
 „ tion and Representation; but a doubt existing in the island how far any  
 „ act of the States can be valid while a parish in the island remains un-  
 „ represented; the Lords of the Committee have thought proper to take

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„ this point into their further consideration, and have been attended as  
 „ well by a solicitor for the Petition and Representation of the Royal  
 „ Court, as by a solicitor employed on behalf of the States; and finding  
 „ that one of the parties is not ready to enter into the discussion of the  
 „ question of right, whether the late Constable or the eldest Centenier of  
 „ the parish of S. Martin is to be deemed the proper acting representative  
 „ of the said parish during the above interval; and it appearing to this  
 „ Committee that an appeal has been entered in the register book of Coun-  
 „ cil, and is now depending before your Majesty in Council touching the  
 „ contested election for the said parish of S. Martin; their Lordships do,  
 „ upon mature consideration, of the whole matter, agree humbly to offer  
 „ as their opinion to your Majesty, that it may be adviseable for your Ma-  
 „ jesty to order and declare that, pending the prosecution of the appeal to  
 „ your Majesty in Council above-mentioned, touching the contested election  
 „ for the place of Constable of the parish of S. Martin, or until further  
 „ order, neither the said late Constable, nor the eldest Centenier of the  
 „ said parish of S. Martin, shall sit in the assembly of the States of the said  
 „ island of Jersey: but that in the mean time, and until the further signi-  
 „ fication of your Majesty's pleasure, the States of the island of Jersey, shall  
 „ be taken and deemed to be competent notwithstanding, to return their  
 „ answer in writing to this Committee, to the several matters contained in  
 „ the said Petition and Representation of the Bailly and Jurats of the Royal  
 „ Court, as also to another Petition of several of the inhabitants of the  
 „ said island of Jersey, (pursuant to another order from this Committee  
 „ bearing date also the said 20th. of may last,) and to do all other acts  
 „ as States of the said island of Jersey.

His Majesty, taking the said report into consideration, is pleased with  
 the advice of his privy Council, to approve of what is therein proposed,  
 and doth hereby order and declare, that, pending the prosecution of the  
 appeal to his Majesty in Council touching the contested election for the  
 place of Constable of the parish of S. Martin in the said island, neither the  
 late Constable nor the eldest Centenier of the said parish, shall sit in the  
 assembly of the States of the island of Jersey, until the further signification  
 of his Majesty's pleasure. And his Majesty is further pleased to declare,  
 that the States of the island of Jersey, shall be taken and deemed to be  
 competent notwithstanding, to return their answer, in writing, to the Lords  
 of the Committee of his Majesty's most honourable privy Council to the  
 several matters contained in the Petition and Representation of the Bailly  
 and Jurats of the Royal Court, and in the said other Petition from several  
 of the inhabitants of the island of Jersey, and to do all other acts as  
 States of the said island of Jersey; and the Governor, Lieutenant Gover-  
 nor or Commander in chief of the island of Jersey for the time being;  
 the States of the said island, and all others whom it may concern, are  
 to take notice of his Majesty's pleasure hereby signified, and govern them-  
 selves accordingly.

(Signed,) *Steph. Cottrell,*

*M. Dumaresq, at his return from England, informed the States of the obstacles he met with in being admitted as their deputy, and he then moved the following Representation respecting the situation of publick affairs in general, and the conduct of the Lieutenant Bailly in particular.*

L'AN 1783, le 15<sup>e</sup>. jour d'août, les États aujourd'hui convoqués par le Lieutenant Bailly pour les affaires publiques, après avoir délibéré sur les différens sujets qui ont été mis devant eux, se trouvent dans la nécessité de prendre en considération la situation critique où les États du pays sont réduits, par les difficultés & empêchemens qui sont opposés journellement à l'exercice de leurs fonctions, & l'impuissance dans laquelle ils se trouvent d'obtenir relief, ou d'être entendus même en leurs propres défense, sans l'interposition immédiate de sa très-excellente Majesté en Conseil.

Sensibles de la bienveillance & de la protection que leur débonnaire Souverain accorde au pays dans les conjonctures les plus pressantes, les États en reconnoissent avec gratitude le prix inestimable, & en sollicitent très-humblement la continuation favorable : soumis par les liens les plus sacrés du devoir, à l'autorité suprême de sa très-excellente Majesté, attachés, par principe & par inclination à la personne de leur Souverain & au gouvernement britannique, rien n'est capable d'ébranler leur loyauté & leur attachement; remplis de zèle en même temps pour le bien-être de leur patrie, vers laquelle ils sont responsables de leur conduite, & jaloux des droits & privilèges que le Roi & ses nobles prédécesseurs ont, de temps à autre accordé à l'île de Jersey, pour le soulagement des habitans; les États se feront un devoir inviolable d'en chérir la jouissance & de les conserver, de s'opposer à quiconque les voudra enfreindre, & de procurer, autant qu'il dépendra d'eux, la paix, le contentement & le bonheur des habitans. Dans ces vues & avec des dispositions les plus sincères vers cet objet, les États se prêteront avec empressement à tous les moyens légaux capables d'y parvenir; désirant en même temps que le peuple soit informé, par une représentation vraie & fidelle, des différens sujets qui mettent obstacle à la conduite des affaires, & qui les a réduites au point où elles sont aujourd'hui; les États solennellement déclarent, certifient, & protestent,

Que le Lieut. Bailly, ( par le ministère duquel les États sont convoqués, ) a différentes fois positivement refusé de convoquer l'assemblée des États, pour des affaires intéressantes, quoiqu'il y ait été instamment requis & sollicité par plusieurs membres des États, tant du corps des Jus-

ticiers, que du corps du Clergé & des Connétables, par quel effet les États ont été, pour plusieurs mois, empêchés d'agir, & les affaires publiques ont été négligées.

Que le Lieut. Bailli a plusieurs fois refusé de mettre aux voix de l'assemblée des États, des propositions faites & présentées en forme ordinaire, par les membres des États, & soutenues par d'autres membres de l'assemblée.

Qu'une proposition de la première importance au pays, ayant été faite dans l'assemblée des États par un des membres, & logée au greffe afin d'être mûrement considérée; & le Lieut. Bailli requis, soit d'ajourner l'assemblée en quinzaine, de l'appointer au jour de sa commodité, ou de référer l'ajournement aux voix des États, pour mettre cette affaire en délibération, il a refusé de se prêter à aucuns de ces moyens.

Que le Lieut. Bailli, après avoir demandé l'opinion d'une partie des membres des États, sur une autre proposition, a ensuite refusé de recueillir les opinions des autres membres des États, & a rejeté la proposition, contraire à tout ordre & coutume, & au grand mépris de l'assemblée.

Que le Lieut. Bailli, après avoir refusé de mettre aux voix des États, les moyens proposés par un membre, pour répondre à deux ordres des Seigneurs du Conseil, il a ensuite mis aux voix partie de la proposition, & lorsque les États approuvoient de la proposition en entier, il a défendu au Greffier de rédiger la résolution des États en forme d'acte; de sorte que pour ne pas désobéir aux ordres desdits Seigneurs, qui exigeoient la réponse des États, les États ont été contraints d'acquiescer à la réformation que le Lieut. Bailli a jugé à propos de faire à la résolution; que les États prenoient alors pour se défendre contre une plainte signée par le Lieut. Bailli même.

Que la susdite résolution ayant été enfin passée en forme d'acte des États, après la réformation du Lieut. Bailli, & ayant été dûment authentiquée par le Greffier, & ensuite régulièrement proposée au Lieut. Bailli, pour le sceau de l'île; le Lieut. Bailli a refusé de l'y apposer, au défaut de quoi les États, ne pouvant être entendus devant sa Majesté en Conseil, sont privés des moyens de se justifier & empêchés de poursuivre les intérêts & droits du public; au défaut de cette formalité, qui ne peut être remplie que par le Lieut. Bailli, le député des États, appointé par le susdit acte, pour leur défense & pour les affaires de l'île, conformément à l'ancienne coutume, n'a pu être admis en cette qualité devant sa Majesté en Conseil; de sorte que les États se trouvant attaqués dans leur conduite, restreints dans leurs fonctions, réprimés dans leur zèle pour le bien de la patrie, & exposés à l'injure des individus, ont cependant les mains liés pour leur défense: l'honneur & les droits des États, les ressources du public, les lois & la constitution, & enfin tout ce qui est cher & précieux au public, est devenu subordonné au pouvoir & à la volonté d'un seul homme,



Tel est le désordre qui règne dans la gestion des affaires publiques & la violation des droits des Etats, aggravée encore par la disgrâce que les Etats ressentent aujourd'hui de trouver, dans un des livres de leurs records, un acte rayé sans leur connoissance ou participation, fait en l'absence du Lieut. Gouverneur & des Etats, sans qu'aucun ordre de sa Majesté en Conseil leur ait été signifié ou communiqué sur le sujet, sans qu'il leur ait été permis de réparer, eux-mêmes, l'erreur de leur procédé, en reconnoissant l'autorité suprême qui leur impose la loi.

Sensiblement touchés de cette dégradation des plus humiliante de l'ancien établissement des Etats, qui les fait subir l'interposition d'un corps inférieur, & qui place la réforme de leur conduite entre les mains d'une partie de leurs membres, avec lesquels ils sont en dispute; qui les expose au mépris du public, & qui anéantit le respect & la dignité qui leur convient, comme un corps législatif.

Les Etats ne peuvent se dispenser d'en exprimer leur peine & leur mécontentement, se reposant toutefois avec entière confiance dans la justice de sa très-excellente Majesté en Conseil; mais comme les Etats sont arrêtés dans les moyens qu'ils croyoient les plus propres pour y parvenir, tant pour le soulagement du peuple, que pour leur propre justification, & qu'ils ne peuvent plus agir avec liberté dans leurs délibérations, ni faire fond sur les actes & résolutions de leur corps, quoique dûment authentiqués; ils se trouvent enfin dans la dure & indispensable nécessité, ne sachant quel autre moyen adopter, de suspendre leurs fonctions jusqu'à ce que sa très-excellente Majesté soit informée des difficultés insurmontables qui les environnent, & qu'il lui plaise accorder aux Etats, le privilège d'être entendus devant les Seigneurs du Conseil, par le moyen d'un député, conformément au droit dont eux & leurs prédécesseurs ont joui depuis plus de deux siècles, un droit exercé dans toutes les occasions que les Etats l'ont jugé nécessaire, & spécialement reconnu & confirmé par un ordre des très-honorables Seigneurs du Conseil, du 21 juillet 1680. Et afin que les affaires publiques ne restent point dans l'inaction, M. le Lieut. Gouverneur est instamment requis, par les Etats, de transmettre à sa très-excellente Majesté en Conseil, aussitôt qu'il sera possible, une copie authentique de cette représentation, qui a été logée au greffe pour quinze jours, & après mûre délibération a été passée en acte des Etats, afin qu'il plaise à sa très-excellente Majesté donner ordre pour que les Etats puissent être entendus & procéder aux affaires intéressantes du public, sans aucun empêchement.

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Nous soussignés, membres des Etats de l'île de Jersey, formant une grande majorité de l'assemblée desdits Etats, tenue ce 15<sup>e</sup>. jour d'août 1783, laquelle étoit composée de trente membres, certifions que la proposition sus écrite fut présentée & lue aux Etats le 30 juillet dernier, qu'elle fut alors mise aux voix de l'assemblée par le Lieut. Bailli, &

que les Etats opinèrent que ladite proposition demeureroit logée au greffe pour être prise en considération; qu'aujourd'hui les Etats assemblés pour cet effet, le Lieut. Bailli a demandé une seconde lecture de ladite proposition, après quoi il a donné ses raisons contre icelle par écrit, & ayant d'ailleurs été entendus amplement sur le sujet, aussi bien que le Procureur général du Roi & plusieurs membres de l'assemblée; le Lieut. Bailli a déclaré, qu'il ne mettroit pas la proposition aux opinions de l'assemblée, donnant pour raison, qu'elle tendoit à l'accuser; que Josué Pipon, écuyer, premier juge sur le siège, & aussi Lieut. Bailli, a ensuite été requis de mettre la proposition aux voix de l'assemblée, ce qu'il a refusé de faire, en sorte que les Etats n'ont pu procéder ni parvenir à aucune détermination sur le sujet. Partant, nous les avant dits membres des Etats soussignés, protestons contre toutes les conséquences qui peuvent s'ensuivre, & déclarons que nous ne sommes plus en état de remplir nos devoirs & acquitter nos consciences comme membres d'Etat, jusqu'à ce que sa très-excellente Majesté soit informée de la situation des affaires, & qu'il lui plaise permettre aux Etats d'être entendus, par le moyen d'un député, comme est spécifié dans la susdite proposition; & afin que ceci soit transmis à sa très-excellente Majesté en Conseil, aussitôt qu'il sera possible, nous requérons l'assistance & interposition de M. le Lieut. Gouverneur, entre les mains duquel nous mettons cette présente déclaration, à l'effet susdit, nous reposant entièrement sur la justice & protection de notre suprême & débonnaire Souverain.

Ed. Le Maître. . . }  
 David Patriarche . . } justiciers.  
 Nic. Fiott . . . }

Frang. Le Breton, doyen de l'île de Jersey & recteur de S. Sauveur.

Richard Le Feuvre, recteur de S. Pierre.

J. Du Parcq, recteur de S. Ouen.

A. Biffon, recteur de S. Laurens.

Frang. Valpy, recteur de Ste. Marie.

Fr. Le Couteur, recteur de S. Martin.

G. Bertram, recteur de S. Clément.

Thomas Sivret, recteur de S. Jean.

Ch. Marinel, connétable de S. Hélier.

Jean De Carteret, connétable de S. Ouen.

Jacques Pipon, connétable de S. Brélade.

Jean Dumaresq, connétable de S. Pierre.

Thomas Labey, connétable de Grouville.

Jean Du Pré, connétable de Ste. Marie.

George Sivret, connétable de S. Jean.

*The above Representation and Protest was transmitted to the Secretary of*

*States by the Lieut. Governor, and some months after a Petition was sent, signed by the same members of the States, in the words following.*

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL;

*THE humble Petition of Edward Le Maistre, David Patriarche, Nicholas Fiott, Francis Le Breton, Richard Le Feuvre, John Du Parcq, Francis Valpy, Amice Biffon, Francis Le Couteur, George Bertram, Thomas Sivret, Charles Marinel, John De Carteret, James Pipon, John Dumaresq, George Sivret, Thomas Labey, and John Du Pré, being the major part of the members of a full assembly of the States of the island of Jersey.*

*SHEWETH,*

**T**HAT the present unhappy and disorderly situation of publick affairs in your Majesty's island of Jersey, calls upon your Petitioners, in their publick capacity, representing the body of the people there, to lay before your Majesty a true state of the alarming crisis, to which the island is reduced, by the powerfull attempts, and daily encroachments made on the prerogative of the States, the constitution of the island, and the rights of the people.

We therefore, your Majesty's Petitioners, in the discharge of a sacred duty, disclaiming every private or personal consideration, find ourselves indispensably bound most humbly to represent to your Majesty;

That the Lieutenant Bailly, (by whose means only the States can be called together,) has at different times refused to convene the assembly of the States upon interesting subjects, although he has been earnestly requested, and solicited to that purpose by several members of the States, as well from the body of the Jurats, as from the Clergy and Constables, by which means the States have been neglected.

That the Lieutenant Bailly has also refused to put to the votes of the assembly of the States, motions made in the ordinary, and usual form by members of the States, and supported by others.

That a certain motion or proposal, of the first importance to this country, having been made in the States by one of the members, and lodged an greffe to be maturely considered : and the Lieutenant Bailly having been requested either to adjourn the meeting to fourteen days, to appoint it at his conveniency, or to refer the adjournment to the votes of the States, in order to bring this matter to deliberation : he has refused every means of further consideration of the subject.

That the Lieutenant Bailly, after having collected the votes of part of the members of the States upon another motion, has refused to continue collecting the votes of the other members of the States, rejecting the motion contrary to all order, rule, and practice, and to the great contempt of the assembly of the States.

That, upon another occasion, when two orders from the right honourable the Lords of the Committee of Council, bearing date the 20th. of may 1783, were delivered to the States for their answer, a motion in writing was thereupon proposed by one of the members, specifying the means, and pointing out the steps most proper to be taken for paying immediate obedience to their Lordships' said orders : that the Lieutenant Bailly refused on this occasion to put the motion to the votes as it stood proposed, and seconded : but having asked the votes upon such part of the motion only, as he judged proper, and finding that the States approved of the whole proposal, he forbid the Greffier, or Clerk of the States, from making an act of the resolution. The States therefore, to avoid any imputation of disobedience to their Lordships' said orders, which required their answer, were drove to the necessity of acquiescing to such alterations, and distortion of words, as the Lieutenant Bailly thought proper to insert in their act, at a time the States were taking measures to defend their conduct against a complaint signed by the Lieutenant Bailly himself.

That the above mentioned resolution having at last passed in due form of an act of the States, with the amendments, and consent of the Lieutenant Bailly, and having been properly signed, and authenticated by the Greffier, and afterwards regularly proposed to the Lieutenant Bailly for the seal of the island; the Lieutenant Bailly has refused to affix it thereto; for which reason, the States have been deprived of the means of justifying their conduct before your Majesty in Council, and prevented from supporting the interest and welfare of the publick. For want of this formality of the seal of the island, which cannot be executed without the Lieutenant Bailly, the deputy of the States, appointed by the aforesaid act for the defence of the States, and for other publick affairs, conformable to constant, and immemorial usage, could not be admitted in that capacity before the right honourable the Lords of the Committee of Council.

That, in aggravation of the above-stated facts, the Lieutenant Bailly has frequently at the meetings of the States cast the most indecent and severe reflections upon the opinions, character, and understanding of the different members : imputing to some, weakness or imbecility; foretelling, in ridicule, the opinion of others; and in one flagrant instance, calling the States a faction of robbers of the publick money, or terms similar to these in the french language.

Such

Such are the irregularities, the indecencies, and disorder, which prevail in the management of publick affairs in your Majesty's island of Jersey, to the great prejudice of the people in general, and of the corporate body of the States in particular; who, finding themselves attackt in their lawfull proceedings, restrained in their functions, checkt in their zeal and honest exertions for the welfare of their country, and exposed to the injuries and insults of individuals, are cut off from the natural and usual means of defence; their conduct, honour, and rights, the liberties and priviledges of the people, the laws and constitution of the island, and in short every thing that is dear and precious to free-born subjects, being now at the disposal, and under the controul of one man.

We, your Majesty's most humble Petitioners, called forth to sacrifice the repose of a private life to the service of the State, without the least emolument; yet, zealous to preserve inviolate all priviledges, rights, and liberties, which your Majesty, and your Royal Predecessors have been graciously disposed to bestow on this country upon the most urgent occasions; sensible also of the inestimable blessings, which the inhabitants of this island enjoy, by their firm, and unshaken attachement to your Majesty's sacred person and government (so often and in some late instances effectually experienced,) we hope by this our humble and earnest supplication, to obtain from your Majesty a continuance of the same benign attention.

Most humbly praying that your Majesty will be graciously pleased to order, that the States may be permitted freely, and without any hindrance, obstruction, or delay, to proceed to answer the two late orders from the right honourable the Lords of the Committee of your Majesty's most honourable Privy Council bearing date the 20th. of may 1783, by the usual, and accustomed means: and also in the same manner to proceed to do all other kind of business as States. And for further releif in the premisses, WE MOST HUMBLY PRAY, that your Majesty will be graciously pleased to take into your Royal consideration the present unhappy, and precarious state of political rule and order in the island of Jersey: being well assured that your Majesty, in your great wisdom, after due information of the never-ceasing cause of troubles, and disputes, will permit such regulations to be made, as will effectually secure the rights, prescribe the duty, and ensure the peace of all ranks of persons in your Majesty's island of Jersey. And your Majesty's Petitioners, as in duty bound, will ever pray, &c. &c.

Jersey, dec.  
22d. 1783.

Ed. Le Maistre, }  
David Patriarche, } Jurats:  
Nic. Fiott, }

Francis Le Breton, dean of Jersey, and rector of St. Saviour's  
Richard Le Fauvre, rector of the parish of St. Peter's.

*J. Du Parcq, rector of St. Ouen's.*  
*Francis Valpy, rector of Ste. Mary's.*  
*A. Biffon, rector of St. Laurence's.*  
*Fr. Le Couteur, rector of St. Martin's.*  
*G. Bertram, rector of St. Clement's.*  
*Th. Sivret, rector of St. John's.*  
*Ch. Marinel, constable of St. Helier's.*  
*J. Carteret, constable of St. Ouen's.*  
*James Pipon, constable of St. Brelade's.*  
*John Dumaresq, constable of St. Peter's.*  
*George Sivret, constable of St. John's.*  
*Th. Labey, constable of Grouville.*  
*John Du Pré, constable of St. Mary's.*

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition and Representation of several of the principal inhabitants  
of your Majesty's island of Jersey hereunto subscribed,*

*S H E W E T H,*

**T**HAT, having seen a Petition lately addressed to your Majesty in Council, by about seventy of the inhabitants of this island, complaining of some late acts of the States, and exclaiming with much warmth and acrimony against the proceedings of that assembly, think it our duty humbly to lay before your Majesty our sentiments on that subject, lest, by our silence, we should seem to acquiesce in a censure which we think undeserved, or lest the opinion of a few should be mistaken for the general sense of the whole.

We therefore beg leave humbly to represent to your Majesty, that we neither see nor feel any thing oppressive in the measures complained of: that on the contrary they appear to us to be no more than a proper and reasonable exertion of that ancient and accustomed right, which has been reposed in the States by your Majesty and your Royal Predecessors for wise and good purposes; and without which it would be impossible for them to guard, as they are bound to do, the liberties and privileges of themselves and us their fellow-subjects.

We hope that your Majesty will not judge it necessary to adopt such innovations as are proposed by the Petitioners, under the specious pretence of preventing abuses which do not exist: that it will be time enough for the Constables to be restricted in the manner prayed for, when they shall have forfeited the confidence of their constituents, of

which they are as yet deservedly in full possession; that such a restriction would cause infinite delay and confusion, open a door to cabal and intrigue, and might eventually throw the decision of every important question into very improper hands: that, moreover, it would greatly clog the exertions of that branch of the legislature, and consequently lessen its weight in the general assembly; a weight which if we may judge from circumstances ought rather to be encreased than diminished.

As to the other expedient prayed for in the said Petition, we humbly conceive it is big with the most alarming and ruinous consequences, as it would put it in the power of any one body effectually to stop the functions of the whole, and render void any exertions which the States collectively might judge necessary to make against the arbitrary encroachments of any individual or number of men: exertions which our records testify to have been often made from the best motives, and on the best grounds, having met with the entire approbation of our Sovereigns.

When we consider, that even now, differences of considerable magnitude subsist between that assembly, and several of their members; and see the various means which are used by the lesser number, to check and overset the resolutions of the whole, we cannot but express our concern at the effects of this opposition, and be alarmed at the prospect of expenses, at the instability and confusion which it must ultimately produce, and of which the publick may become the victims.

With respect to the origin of these disputes, we beg leave to represent to your Majesty, that the violent rejection by the Court, of a Constable duly chosen, was such an infringement of the rights of the people, as the publick at large was greatly interested to resist: that the measure adopted by fourteen members of the States on that occasion (who were prevented from acting collectively by the very grievance they complained of,) was highly expedient, and deserving the sanction which the States afterwards gave to the measure: that the publick is therefore bound in honour and justice to reimburse every expense incurred in protecting its own rights and liberties.

Finally, we most humbly pray your Majesty, to take into your royal consideration the present unhappy and critical situation of this island, and to examine by what cruel necessity, or by whose fault it has happened, that the supreme assembly has been deprived of all power of acting, and a stop has been put to the whole publick oeconomy of this State; being well assured that your Majesty, in your wisdom, will make such regulations for correcting the present, and preventing future abuses, as will most effectually ensure peace, tranquility, and happiness to all your Majesty's subjects in this island.

And your Petitioners, as in duty bound,  
Will ever pray, &c. &c.

*The above Petition was signed by 1036 inhabitants, among whom where the principal and most respectable gentlemen of the island.*

*THE ANSWER of the Lieutenant Bailly of the island of Jersey, to a Petition preferred against him to his Majesty in Council, by several members of the States of the said island.*

**T**HE order of the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 20th. of april 1784, requiring the Lieutenant Bailly of Jersey to answer, forthwith, a Petition to his Majesty in Council by several members of the States of the island of Jersey, and not delivered to him till the 26th. of may last, almost a month later than it ought to have been, though the very great variety of publick business, which the Lieutenant Bailly is at this time, by virtue of his office, necessarily obliged to attend to, might plead his excuse for delaying to pay immediate obedience to their Lordships' orders; yet being zealous faithfully to discharge his duty, he will not hesitate to sacrifice the small portion of leisure and repose which is left him to the good of his country, which requires of him to state to their Lordships a just and impartial account of the situation of publick affairs in his Majesty's island of Jersey, the constitution of which is materially connected with his conduct in the exercise of his office of Lieutenant Bailly,

It is certainly true that the publick affairs of Jersey are in great disorder. A faithful state of facts and the natural inferences deducible from them will plainly shew from whence such disorder has proceeded. The Petitioners introduce their complaint by declaring, that they represent the body of the people, and their Petition is signed by three Jurats, eight Ministers of parishes and seven Constables. The assembly of the States is composed of the Bailly and twelve Jurats, chosen by the whole island, twelve Constables chosen by the inhabitants of their respective parishes only, and twelve Ministers styling themselves Rectors of parishes, who have seats in the States but are not elected by the people, nor even qualified by any oath of office. They are men of little or no property and contributes nothing to the publick expences. This last class of men cannot be the representatives of the people, and the Petition is signed by only three Jurats and seven Constables; there are of course nine Jurats including the Lieutenant Bailly and four Constables, (exclusive of a representative of the parish of St. Martin respecting which there was then a dispute) who disapproved of the Petition, and consequently the Petition does not state the sense of the representatives of the body of the people.

It is not true that encroachments have been made by the Lieutenant



Bailly, either on the prerogatives of the States, the constitution of the island or the rights of the people; but the Lieutenant Bailly takes the liberty of asserting, that encroachments have been made by the Petitioners on the prerogatives of his Majesty's first Minister of justice, who has the honour to represent his Royal person, and who is bound by his oath of office to preserve and maintain the rights of his Majesty, and also the rights of the Jurats of the Royal Court, and it must be confessed that these encroachments have not a little endangered the constitution of the island and the rights of the people.

In order to enable your Lordships to judge of the truth of this assertion, it will be necessary to premise something respecting the nature and extent of the office of Bailly and the assembly of the States. The Bailly is strictly speaking the civil Governor, being at the head of the civil government in this island. The Governor, properly so called, has the charge of military matters; this was settled by an order in Council of the 27th. of february 1616. By an other order of the 15th. of june 1618, the Bailly is acknowledged to be a principal officer for the conservation of the Estate, and precedence is given him over the Governor both in Court and States. The Governor is directed, by his letters patent, to obey the Bailly in all things relating to his office of Bailly, from which it may be infered, that the Crown intended that the military should be subordinate to the civil power, as far as was consistent with the constitutional dignity of the Governor.

By the constitutions of King John, twelve Jurats or sworn discreet persons *ad jura coronam spectantia custodienda*, were joined to the Bailly, and jurisdiction was given them on all matters arising within the island, excepting in case of high treason, and in case of violence committed against the ministers of justice in the execution of their duty. These persons had the power of making certain political ordinances and regulations, but whenever they and the Governor found it necessary to raise money, they were obliged to obtain the consent of the people on whom such money was to be raised. This was the origin of Constables' having seats in the States; they were by the nature of their office subject to the Royal Court and were obliged to attend the States when called upon; and as they were chosen by the inhabitants of their respective parishes, they were supposed to be the best qualified to represent those who had so chosen them. Whenever the Court had any momentous concerns besides the raising of money to deliberate upon, they generally called upon the wisest and the most discreet persons in the island for their advice, but more particularly the Clergy, whose apparent sanctity of manners and whose superior knowledge and wisdom were in those days of ignorance held in the utmost veneration; but they were called upon merely to give their advice, and it rested in the breast of the Jurats to call on them or not as they pleased. That was the origin and nature of the assembly of the States and

continued so till the year 1591. In some of these instances it appears, that the Constables and Clergy were called upon merely to advise the Court. In others it appears, that the Clergy and Constables were not the only persons called upon, gentlemen and people of rank and property were frequently summoned to attend: and in all cases it appears, that it was the Royal Court that enacted, sometimes with the advice, and at other times by the consent of those present. In the year 1591, the Royal Commissioners enacted, that the assembly of the States should be composed of the Jurats, the Clergy and Constables, and that all acts in that assembly should be passed by the majority of each of the three constituent bodies; a visible preëminence was nevertheless preserved to the Jurats as the first body, and amongst other things it was ordered, that they should be the sole judges of the fitness or the unfitness of the members to be of the assembly of the States, and they were authorised to punish, by their sole authority, those who behaved improperly in that assembly.

That the Royal Court is, by the spirit of the constitution, the first and supreme body of the Estates.

By the general usage of the island, in all Committees of the States, there has always been an equal number of members nominated out of each body established as a quorum, and if such quorum was not compleat in number, the members of the Committee present, were prevented from proceeding, and each body of such Committee has been constantly separate and distinct from the others, in conformity to the original institution of the Royal Commissioners in the year 1591.

The acts of the States are always stated to be made before the Bailly assisted by the Jurats, the Clergy and Constables present, a very material and striking difference between the latter and the former. It would perhaps be difficult, if not impossible, to instance any act of the Estates passed contrary to the opinion of the majority of the Jurats, except those instances which have occurred since the disputes respecting the Constable of Saint-Brelade's.

By the original constitution of the island, down to the year 1771, the Royal Court could, of their own authority, make political ordinances. That power being then taken away, it was declared, that no political ordinances should be passed, except by the whole assembly of the States; but it was not explained what was meant by the whole assembly of the States; but there is not the smallest kind of an intention to abrogate the first legal constitution of the States, as settled by the Royal Commissioners in 1591; and though it deprived the Bailly and Jurats of the positive power they had of making political ordinances, it is silent respecting the negative right they had to make none, or the right of not taking the advice of the Clergy and Constables, when they thought it unnecessary, and meant to pass no laws; consequently, all their original rights exist,

except that of making political ordinances. The States have not any officers of their own. The King's Attorney and Advocate general, the Viscount, the Greffier or Clerk, the Denonciators and the Huissier, are all officers of the Royal Court, which forms of itself a compleat body politic, and it is by their medium only that business can be carried on. If it were otherwise, an antient Court of justice, created by, and dependant on the Royal authority only, and the supreme order of the States would be dictated to by its own ministerial officers, deprived of the negative voice and controlled in its proceedings, by those very persons, who, from time immemorial, have been subject to obey its orders and mandates. And though it is incontestably the first order of the States in the political scale of government, it would be over-balanced by the two inferior orders, the majority of whom has formed a coalition and entered into a combination to level all legal distinctions, to degrade his Majesty's authority and that of his civil jurisdiction in this island, and to establish, upon its ruin, their own independency. The antiquity of the Royal Court; its jurisdiction by legal authority; the election of its members by the freeholders of the whole island, and that for life; its rank and dignity, and the family and property of its members, would then avail it nothing, would be insufficient to rescue it from a disgraceful annihilation. It has been already stated, that the Clergy contribute little or nothing to the publick exigencies of the state; it may therefore surprise your Lordships that they have joined in the Petition against the Lieutenant Bailly, but he trusts that, as they have little interest in the States, their representations will have little weight with your Lordships.

The several charges contained in the Petition are conceived in such very general, loose, and vague terms, that the Petitioners meant no doubt to disguise the truth and to escape detection, by encreasing the difficulties of the defence.

The first thing that the Lieutenant Bailly is accused of, is that he refused, at different times, to convene the assembly of the States : the fact is true; but if the times and refusal had been specifically dated, it would have appeared that his own illness prevented him from convening them at two or three of the times, when such applications were made; and his reason for refusing to convene them at other times, was, that things had been thrown into disorder and confusion by several unconstitutional votes of the assembly, in opposition to the majority of the Jurats, and particularly by reviving a Constable whose office had expired, and introducing him into the assembly of the States as representative of a parish which had disavowed him. That the Royal Court, as guardians of the privileges of their country, thought themselves in duty bound to represent the proceedings of the inferior order of the States to his Majesty, together with other grievances and innovations, which they had attempted to make upon the constitution of the island. That the Royal Court, by

a Representation of the 20th. January 1783, humbly stated to his Majesty, the reasons which induced them to decline giving any attendance upon an assembly of the States which appeared to them to be illegally constituted, till his Majesty's pleasure was known.

That the conduct of the Royal Court did not originate from caprice; but was grounded both on law and usage and upon the opinion of his Majesty's Attorney and Advocate general of the said island, who had positively declared that the assembly of the States was not legally constituted; these reasons induced the Lieutenant Bailly to refuse to convene an assembly of the States, and he trusts he was fully justified in such refusal.

That, even, if an assembly of the States legally constituted could have been convened, the persons requiring such convention had no right, either in law or usage, to make such requisition. The Governor, the Bailly and Jurats are the only persons who have a right to convene the States; this right is extremely antient and is probably to be deduced from the very nature and origin of the States, who were originally called upon by the Governor and the Court. An instance can be adduced as early as the year 1526. This antient privilege was confirmed to the Governor, the Bailly and Jurats by an order in Council of the 2d. June 1619, with this difference that the Governor might postpone this meeting for 15 days if he thought proper.

The Constables, by their oath of office, are bound to attend the States when called upon, and being in that respect merely passive, they have no authority whatever to require the meeting of the States, and no instance can be produced, previous to the year 1782, of the Constables' having made such requisition; the Clergy have certainly no power to make such requisition.

By the present laws of Jersey, the rights of the King and the privileges of the people are equally secured, for it is not probable that both the Governor, Bailly and the majority of the Jurats should all unite in opposing the meeting of the States, if it was necessary or expedient, for it is in the power of either of the three to demand an assembly to be called when they think necessary, and it is absolutely false that the Lieutenant Bailly has ever refused to convene the States when required so to do by the body of the Jurats.

In the second place, the Lieutenant Bailly is accused of having refused to put to the votes of the assembly of the States, motions made in the usual and ordinary form: he has certainly refused to put motions to the votes in two or three instances, prior to the date of the Petition. And these he believes are the same which are vaguely specified by the complainants, and to which specific answers will be given. In the first place the Lieutenant Bailly denies that the motions were in the usual and ordinary forme. It is evident from the constitution of the States that the  
Clergy

Clergy and Constables, being originally called upon merely to advise the Court, could have no right to make motions properly so called. And therefore when they had any thing to ask, it was by way of Petition or Remonstrance like all other private persons; in fact, till very lately, motions were generally made by the Governor, Bailly or King's officers; the Constables never made any except as to subjects which related immediately to their respective parishes. As to the Clergy, they confined themselves in their motions to measures purely ecclesiastical, or to things which had some reference thereto.

As all motions are not equally admissible, and some are entitled to be considered previous to others, the chief Magistrate must in some instances have the power of admitting or rejecting them.

If the motion is proposed by persons incompetent to propose it, or if proposed is contradictory to some express law, or subversive of the judicial power, or derogatory to his Majesty's authority, or subversive of the general constitution of the country, the Lieutenant Bailly is bound by his oath of office to refuse it. And there is a recent instance of such right of refusal having been claimed and exercised by the predecessor of the present Lieutenant Bailly. In the disputes between the Royal Court and the inferior order of the States, touching the legality of the election of the Constables of S. Brelade's in the year 1779, it was, amongst other things, strongly and very particularly insisted upon by the latter, that the chief Magistrate, having refused to put a question to the votes, had acted arbitrarily, and his Majesty in Council was requested to express his disapprobation of the conduct of the President; but the Lords, after consideration of the whole matter, did not think proper to pass any sentence upon him, though the fact was allowed to be true on his side.

The next article of complaint is, that the Lieutenant Bailly refused to adjourn the meeting of the States, or to refer the adjournment to the votes, in order to take into consideration a proposal of the first importance. The proposal was certainly of the first importance, being that Royal commissioners might be sent over to the island to act conjointly with the assembly of the States in settling the disputes between the Royal Court and the two inferior orders of the States. The proposal militated against the spirit of the constitution, as by the laws established, when Royal commissioners are sent over to the island, they are to act conjointly with the Jurats and Justices of the Royal Court, and therefore the Lieutenant Bailly refused to adjourn the States. There was also another proposition made which the Lieutenant Bailly declared he would not put to the votes, as the object of it was, that it might be established that the assembly of the States should be held four times a year, and that three members of the States should have a right of assembling or convening the said assembly, and that the right of putting off or dissolving that assembly should be

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in the States only, or in the majority of the same. This proposal appeared subversive of the first principles of the constitution of the island, which had placed in the Governor, the Bailly and the Jurats, or either of those bodies, the power of convening the assembly of the States. The proposal was not made either by the Governor, the Bailly or the Jurats, but originated from the inferior order of the States, and appeared of so dangerous a tendency, with respect to the allowed prerogatives of the Crown and its representatives, that the Lieutenant Bailly thought it his duty to prevent the proposal being taken into consideration.

The next article of charge is like the others, not fairly stated. A motion was made in the States, to direct the late Constable of S. Martin's, who had been discharged from his office agreeable to law, not to part with the parish papers, notwithstanding the Royal Court had, by their sentence (after the matter had been fully debated and pleaded upon by both sides) ordered that those papers should be delivered to the first Centenier of the parish. As some of the Petitioners pressed the Lieutenant Bailly to put the question, he called upon the Jurats, in the presence of the other members of the States to declare if they had passed judgment on the point then in agitation, and if it was passed in the manner before stated; being answered affirmatively, he declared that in such circumstances he could not proceed further on the question, and that he should look upon himself as highly culpable, was he to make a part of the States the judges and censurers of what the Royal Court had done in its judicial capacity, by the ordinary process of law. That he was obliged by his oath to conform himself to the opinion of the Jurats in those points of a contentious nature which had been heard and determined by them as Judges; that the law was formal and express, that all judicial causes of what nature soever were of the cognizance of his Majesty's Royal Court in this island, whose sentences and proceedings could not be altered or revised by any other tribunal than that of his Majesty in Council.

In the next article, the Petitioners wish to make it appear as if the Lieutenant Bailly had done his utmost to prevent their complying with the order of the Lords of the Committee of the 20th. of May 1783, and for that purpose they state the case in a false point of view. The fact is this: as soon as the Lieutenant Bailly received the above orders, he thought it his duty to convene the States, such as they were, in order to give them the means of shewing a ready compliance. This he did without being requested thereto by any person, conceiving that the orders of their Lordships ought to be attended to at all events.

The States being met, the Lieutenant Bailly directed the Greffier to read the aforesaid orders, after which he proposed that they should be lodged au greffe to be taken into consideration, that a Committee should be appointed to prepare the necessary answer. He was stopped from collec-

ting the votes by the Rector of S. Martin's, who read a ready written act, the first part of which was to the same effect as what the Lieutenant Bailly had proposed, the second part recited that he had received a letter from Henry Sayer, esquire, solicitor to the States, and it appearing that there was some business of importance coming forward, it was found expedient to appoint John Dumaresq gentleman, Constable of S. Peter's, deputy at the publick charge. As this latter part tended to load the publick with expences, without having previously obtained their approbation, and as such an illegal invasion on the property of the inhabitants, by those chiefly who contribute nothing, was one of the objects against which complaints had been made before his Majesty, and which they were called upon to answer; and as that proposal, though of such manifest importance to the interest of the publick, had not been lodged at the greffe the fourteen days prescribed by his Majesty's order in Council above-cited, the Lieutenant Bailly thought himself fully authorised not to put it to the decision of the States, as they were then formed, and more especially as it was more consistent with the forms of proceeding, that the motion first proposed by him should be first put, he therefore put to the votes his own original proposal. Seven Jurats, one of the Clergy, and six Constables voted simply to the question, and three Jurats, eight of the Clergy, and five Constables were for adopting also the addition made by the Rector of S. Martin's, the latter part not having been put to the votes, it could not certainly be considered as any act; and as it appeared by the face of it, as if he had put it all to the votes, he could not permit truth to be so essentially disguised, and therefore forbid the Greffier to sign it in the form it was.

As the majority of the Constables did not vote the act in question, there was the greater reason for consulting their parishes, and the more so as several of them desired, and as it had been generally done in instances of consequence, particularly in the raising of money on the publick, the Constable of S. Peter's, the person to be appointed deputy, could not, or at least ought not, to be supposed to have voted for his own deputation; and as Mr. Richardson was not a legal member of the States, and has since been so declared by an order in Council, their own two votes ought to be deducted, which will leave the number equal on both sides; and the Lieutenant Bailly would, in quality of president, have had a casting vote. The Petitioners say, that in the aforesaid act they were taking measures to defend their conduct against a complaint, signed by the Lieutenant Bailly himself; they no doubt must mean the Petition of the 20th. of January 1783, which he had signed conjointly with all the Jurats of the Royal Court except three, and the same which the States had orders to answer, for he has not signed any other against them, the truth of the matter is; that this deputy was appointed at the publick charge to defend the proceedings of a party in the States, against an antecedent Petition preferred against them by the Jurats of the Royal Court, and

in which the Lieutenant Bailly had no share; the act for which the Deputy at the publick charge went over to England, was annulled by an order of his Majesty in Council, and as a mark of his Majesty's high displeasure, the Bailly and Jurats of the Royal Court were directed to cause the said act to be erased out of the publick records of the island, and to cause his Majesty's order in Council to be registred and published in due form in the island. The law is express, that all proposals should be lodged at the greffe fourteen days at least before they shall be determined, in order that the Constables may consult their constituents, if they think necessary; as that was not done, the act appointing the Deputy was certainly illegal, and the persons making the proposal had frequent opportunities of complying with the law; for the States were assembled eight different times from the 31st. of august 1782, the day on which the second Petition was presented to them, to the 11th. of june 1783, the day on which the said appointment of deputation took place.

The Lieutenant Bailly doth not dispute the right of the States to appoint a Deputy at the publick charge; but the proposal for such appointment must be left at the greffe fourteen days before it is determined, and it cannot be made a legal act of the States without the assent of the major part of the Jurats.

The above pretended act of the States, appointing M. Dumaresq Deputy at the publick charge, is the same to which the Lieutenant Bailly has refused to affix the seal of the island, and of which conduct the Petitioners complain. They begin by stating, that the said act had passed with the consent of the Lieutenant Bailly : this is not the fact; he never put to the votes the appointing a Deputy at the publick charge : it is for your Lordships to determine whether he was justifiable in refusing so to do; and if he was justifiable in his refusal to put the proposal to the votes, he is certainly justifiable in his refusal to put the seal to the pretended act, which in truth is no act at all.

The Lieutenant Bailly has always affixed the seal to all legal acts and to all papers, though intended as charges against some or one of his family or against himself and the Royal Court, and he defies the Petitioners to adduce a single instance, in which he has refused so to do, excepting in the instance of which they complain. It is said, that for want of the formality of the seals being affixt to that pretended act, the Deputy of the States could not be received before the Lords of the Committee of Council in that quality; to which it is sufficient to answer, that if the said Lieutenant Bailly was justified in his refusal, the Deputy appointed was not a legal Deputy, and ought not therefore to be received as such before the Lords of the Committee of Council.

The last charge in the Petition against the Lieutenant Bailly is, that he has cast the most indecent, and severe invectives upon the characters,



opinion and understanding of the different members. This is a very vague and general charge: the particular facts, in support of it, ought to have been stated with accuracy and precision.

The Lieutenant Bailly recollects, that one of the Jurats having had the weakness to retract himself from having joined in a complaint against the Clergy and Constables, without any previous investigation of the subject, on the simple reading of the answer to the complaint, he did, involuntarily, make use of the words "*cela fait pitié*." And in fact, that very act which he had, in conjunction with the other Jurats, complained of, has since been declared null and void, and ordered, by his Majesty in Council, to be erased from the records of the island.

It is possible the Lieutenant Bailly might foretell the opinions of some, as he knew they would vote in conformity to their party system; and as to the pretended ridicule, if any existed, it most undoubtedly arose from the subject itself, more than from any remarks of the Lieutenant Bailly.

As to the only article of specific charge, in which the Lieutenant Bailly is stated to have called the States a faction of robbers; he acknowledges that when he observed that the two inferior orders of the States (in opposition to the majority of the first and highest order) were resolved, at all events, to seize the publick money to defray their own law suits, without previously consulting the publick, and without observing the forms prescribed by law, he did declare, in the french language, "*que si le public devoit être pillé, on auroit dû le piller en forme*."

The Petitioners, towards the conclusion of their complaints, pray his Majesty to order, that the States may be permitted, freely and without any hindrance, obstruction or delay, to proceed to answer two orders of the Lords of the Committee of the 20th. of may 1783.

The aforesaid orders were presented to the States, so early as the 11th. of june 1783, and a Committee of, no less than nine members, appointed to draw up the necessary answers; and an order of his Majesty in Council of the 11th. of july 1783 having been registered the 31st. of the same month, all the obstacles which remained in the way of publick business were effectually removed. It is said, that the Lieutenant Bailly created obstacles by refusing to put certain questions to the votes. All the instances, in which he is accused of having refused to put questions to the votes were, prior to the said order in Council, and existed at a time when there were real obstacles in the way; and at a time in which the States were an illegal, incompetent assembly. When his Majesty was graciously pleased to put it in the power of the States to act in a legal manner, and they had in consequence proceeded to a variety of business, on the 31st. of july and 15th. of august 1783, the Clergy and Constables

proposed to suspend the proceedings of the States; and by an act or protest, in which they criminated the Lieutenant Bailly, and by which they aimed at making themselves his accusers and judges; the Lieutenant Bailly repeatedly desired them to proceed to the affairs appointed for the day, and that they would find him perfectly ready to cooperate with them in forwarding and dispatching the same; they however suspended their functions, because he did not put the proposal in question to the votes; and if he had put it to the votes, and it had been accepted, the assembly of the States would, from the very nature of their proposition, have been, ipso facto, suspended. It was also proposed that a proviso should be made respecting the differences subsisting between him the Lieutenant Bailly and the States, that they might immediately shew an implicit obedience to their Lordships' orders, and this without any prejudice to their reciprocal pretensions, but all to no purpose. He convened the States again on the 9th of September, pursuant to an act passed on the 15th of August, but the Petitioners would enter into no kind of business whatever, except he first proposed the act of his own condemnation. The Petitioners ought to have stated their complaint against the Lieutenant Bailly to his Majesty in Council: the delay of publick business is therefore to be imputed to the Petitioners, who did not prefer their complaints to a proper tribunal, and not to the Lieutenant Bailly who prevented them from being heard before a tribunal not competent to decide upon them.

The Lieutenant Bailly has now answered, as well as the general vague nature of the charges will permit, all the complaints preferred against him by the Petitioners. He most cordially joins with the Petitioners in praying his Majesty, to take into consideration the present state of political rule and order in this island; and that his Majesty will direct such regulations to be made as may most effectually tend to restore peace and harmony, and to avert future causes of dispute and contention. He has stated to your Lordships what he conceives to be the constitution of his country; the laws of that country have been invariably the rule of his conduct. He trusts, that if those laws justify his conduct, your Lordships will think, that the Petitioners ought to make him satisfaction in costs for the trouble and expences which he has been put to by the complaints preferred against him. And if your Lordships shall be of opinion, that misconduct has been erroneous, that you will attribute his errors to mis-application, and not to wilful misconstruction of the laws which he has been always anxious to defend, and which he wishes to transmit inviolate to his posterity.

(Signed) Will. Ch. Lempriere.

*Remarks on the answer of the Lieutenant Bailly to the Petition of eighteen members of the States.*

**I**F the States of the island of Jersey are not the representatives of the people there, where is the representation to be found? The Jurats are chosen by the people at large for life. The Rectors, it is true, are not of popular election, but the Constables are chosen by their respective parishes for three years only, and they have the right of consulting their constituents, when they judge it necessary, by order of his Majesty in Council of the 28th. of march 1771. This corporate body has the power of making laws, of raising money upon the people; and upon all publick occasions it enacts, proposes, answers and proceeds in the name of the people, as may be seen by the constant usage of the States.

It is true the Clergy do not contribute to the publick expences with respect to their benefices; (except for the special defence of the island,) their incomes being but of small value were no doubt exempted by the law for that reason: but they contribute like all the other inhabitants to every publick expence with respect to the property they hold, and some of them in a very considerable degree.

How does it appear that nine Jurats and four Constables disapproved of the Petition? is it because they have not signed it? if that be a proof of disapprobation, the Lieutenant Bailly is not aware that in his Petition with eight Jurats, and with his adherents, the sixty-nine inhabitants, he will find himself in a very humiliating minority, and that his conduct is disapproved by the island in general.

Here the Lieutenant Bailly first describes his power and authority as Lieutenant Bailly, then gives a learned account of the constitution of Jersey, calling to his assistance a tradition (framed for the purpose) of the ancient usages, and, as he styles it, of the origin of the States: whether the state of this matter is the effect of ignorance, or whether it was intended to mislead the Lords of the Council, is not very material; but the fact is that there never was a more erroneous or a more absurd account given of the constitution than in this answer. In the first place the Lieutenant Bailly assumes the honour of representing the King's Royal person in the States. To prove the fallacy of this assertion needs but a reference to the fifth article of the ordinances of Royal Commissioners in the reign of Queen Elizabeth, which positively contradicts the assertion in these terms:

» Item, est ordonné, accordé & déclaré, que toutes autres causes de

« plus grand poids & importance, qui concernent ladite île & ne tou-  
 « chent au suprême gouvernement d'icelle, seront, comme par ci-devant,  
 « de temps immémorial, en la disposition du corps des États de cette  
 « île, lesquels sont les douze Jurés, les douze Ministres & les douze Con-  
 « nétables, où la plus grande partie & nombre d'un chacun d'eux, trois  
 « membres accordant ensemble, pourvu toutefois qu'en chacun des corps,  
 « ci-devant déduits, le Gouverneur pour lors étant, y donne son con-  
 « sentement exprès au nom de sa Majesté, la personne de laquelle il re-  
 « présente, si la cause ainsi le requiert, & le Capitaine pour lors étant en  
 « chacune telle cause, aura voix négative. » And also the latter part of  
 his present Majesty's order in Council of the 28th. of march 1771. » And  
 « his Majesty doth hereby further order, that in case it should happen  
 « that the Governor, Lieutenant Governor or Commander in chief of  
 « the said island, should not be present at the assembly of the States  
 « then that, before any act of matters determined therein shall be effectual,  
 « application shall be first made to the Governor, Lieutenant Governor  
 « or Commander in chief to know whether he chooses to make use of  
 « the negative voice which he hath.

The Lieutenant Bailly also calls himself the civil Governor of the  
 island, and that the Governor, properly so called, has the charge of mi-  
 litary matters. If the Lieutenant Bailly had said that the Governor of  
 the island, besides his charge of military matters, is also a civil Governor,  
 he would have stated the fact; but the Lieutenant Bailly, in his great  
 anxiety to appear his Majesty's representative, ventures to say that the Go-  
 vernor is bound to obey him. When this extraordinary power of com-  
 manding the Governor was given to the Lieutenant Bailly is not known  
 to the Petitioners; the Governor is best able to give answer to this.  
 But it is well known to the Petitioners that by the antient constitution,  
 the Governor had the appointment of the Bailly, and was the first civil  
 Magistrate in the island; they also know that the Governor has so much  
 to do, by the present established law of the island, in civil matters, that  
 on several occasions the Lieutenant Bailly and Jurats cannot act without  
 his presence and consent, such as, the limiting and reducing the number  
 of licences for taverns and publick houses, in reforming their abuses and  
 punishing delinquents; in the disposal of the duties on brandies; in pro-  
 ceedings on accusation of high treason; in all which cases the Governor  
 must be present and give his approbation; in the granting licences for  
 the importation of wool which he does with the advice of the States;  
 in being called upon by the Court, upon all occasions where matters  
 are determined wherein the King's interest or prerogative are concerned;  
 in appearing and answering, in the King's name, at the chief pleas of he-  
 ritage for all fiefs or manors belonging to his Majesty; and above all, by  
 the oath he takes of maintaining the liberties, rights, dignities, laws, cus-  
 toms and priviledges of the island, and the place he holds in the States  
 of

of the island representing the King's person, and having a negative on the proceedings of the States and a right to check whatsoever they do in his absence.

Quere, where is this power of making certain political ordinances to be found? the contrary is clearly to be inferred from the ordinances of Royal Commissioners above-mentioned.

The Jurats and the Clergy are equally obliged to attend the States as well as the Constables, and all of them are liable to a fine of five livres imposed by the States when they absent themselves.

The ordinance of the Royal Commissioners before-mentioned is here falsely stated. Instead of enacting a new law, the ordinance declares that the competency of the States had been such from time immemorial, and it confines this pre-eminence of authority, and consequently it oversets every assertion, however bold, of the Lieutenant Bailly with respect to the origin of the States.

An erroneous construction is also here given to that part of the ordinance, which says : " ou la plus grande partie & nombre d'un chacun d'iceux trois corps, " for the meaning of this, ( if at all definable, ) is clearly, that there shall be the majority of each of the three bodies to constitute a legal assembly, but not that a majority of each of them shall be necessary to pass an act; the inconveniency and indeed impracticability of proceeding in this respect would be a sufficient reply : but it has ever been understood otherwise, and the constant and uninterrupted practice of the States flatly contradicts this position.

It is not immaterial here to observe, that by the 7th. article of the same ordinance it is declared, that the Jurats were to be chosen by the States as had been practiced in former time, and this usage continued until the beginning of the 16th. century, after which they were elected by the people.

Nothing can be inferred from this assertion, nor can there appear a proof in support of it; for as the votes of the States are always taken collectively upon every question, and the majority of the whole assembly is constantly the rule, it cannot appear upon record how many of one body or of the other have voted for the question. *Vide p. 70, lin. 25, 26, &c.*

It has already been said, that it is difficult to find when the Royal Court has acquired the right of making political ordinances. It is granted that they have done so; but it has been an absolute usurpation, and it must be remembered that this, together with other encroachments of the Court, was the occasion of the tumult in the island in the year 1769, which produced his Majesty's most gracious order in Council of the 28th. march 1771, which stands as the bulwark of the liberties of the island at the head of the code of laws. Herein it is said : " and

N

- his Majesty doth hereby order that no laws or ordinances whatsoever
- which may be made provisionally, or in view of being afterwards assented to by his Majesty in Council, shall be passed but by the whole
- assembly of the States of the said island.

*It is silent respecting the negative right they had to make none.* Quere, can any sense or reason be made of this part of the answer? This is however the first suggestion given, and it may be said the only instance known, of the Court's claiming a negative office in the States.

The several officers here mentioned are admitted, but have no votes in the States; the Denunciators are there to certify that the members have all been warned regularly; and there are several instances wherein they have been censured by the States for disobedience. The Greffier is the keeper of the records, and signs all acts of the States, and is obliged to give his attendance at all their Committees, and keep the books of their resolutions.

This representation of the Royal Court has never appeared in the island or been communicated to the States.

This order of Council relates to a dispute between the Governor, Bailly and Jurats, and settles the point between them; but it does not affect the other members of the States, who were not then in question, and it is observable that before this order of Council the Bailly claimed to himself the sole right of calling the States; and that when the matter was heard by his Majesty in Council, the prayer of the Jurats was admitted, and the controuling power of the Bailly was thereby checked.

It was never asserted that the Lieutenant Bailly had refused to convene the States, when required so to do by the majority of his friends the Jurats; therefore the term false is ill-applied.

That the Constables should be the representatives of the people in the States, (as they really are) and not be intitled to make a motion, is too absurd to need a reply; but it is well worth remarking how extremely ingenious the Lieutenant Bailly is in his endeavours to degrade the Clergy and the Constables, and to set up the superior body of the States as he calls himself and the Jurats; and it cannot be here improper to declare, and affirm that the persons, whom he so anxiously wishes to degrade in the eyes of his Majesty in Council, are, with respect to family, fortune, education, and abilities, unquestionably superior to his friends and adherents.

The Council did not go into the conduct of the Lieutenant Bailly but seeing the point clear in favour of the Constable of S. Brelade, immediately determined thereupon, and My Lord Loughborough being called, in the midst of the business, to the house of Lords, the matter rested there.

This proposal is admitted by the Lieutenant Bailly to have been of

the greatest importance, and yet he would not call the States together or allow them to adjourn in order to take it into consideration, and for what reason; because it militated against the spirit of the constitution? why not then give an opportunity to the States to examine that point? the States had neither as yet approved or rejected it. The Lieutenant Bailly himself had admitted the introduction of the motion; it had been lodged au greffe upwards of fourteen days. Yet the Lieutenant Bailly, of his sole authority, rejects the matter without so much as hearing the opinion of the States upon the question. If this is a power vested in the Lieutenant Bailly, it is very unnecessary for the island of Jersey to have States at all, or for his Majesty to constitute any other officer but the Lieutenant Bailly in the island of Jersey. That controul which he assumes over the proceedings of the States, and which he here dares to avow, amounts to an absolute power; and where the Lieutenant Bailly, in his great knowledge, has found that it was against the constitution that Royal Commissioners should act jointly with the States, is not easy to discover. If he had examined the matter more attentively, he would have found that application for Royal Commissioners had always come from the States, that Royal Commissioners have always acted jointly with the States. He might have seen at the head of the ordinances of Royal Commissioners in the reign of Queen Elizabeth, that the ordinances were made with the consent of the States. He might have seen also by two orders of Council, the one dated the 23d. day of July 1605, the other dated the last day of August 1606, that, in consequence of an application made to his Majesty in Council by the States for Royal Commissioners, his Majesty granted their request, and the States received, by these orders, directions to prepare matters for the coming over of the Commissioners. He would have been further convinced of this ancient usage by the establishment of the present code of laws of the island, which was all settled in the States as recently as the year 1770, the States then acting in conjunction with the Commander in chief appointed by special commission for that purpose. *Vide for the next paragraph, page 74, lines 10, 11, &c.*

All this matter is falsely represented; the Lieutenant Bailly has thought proper to omit that the act of the States of the 30th. October 1782, which declared the Constable of S. Martin to be the proper person to officiate until the new Constable was sworn in, was prior to the act of the Court which determined the contrary; and in this respect, the Court took upon them to decide in direct contradiction to a regular act of the legislature of the island. The Lieutenant Bailly also asserts that he put no motion to the votes of the Jurats; this is untrue; a regular motion in writing was put to the votes by him, and he would go no further than the Jurats: this same original motion can now be produced, written at the time in the States and in his presence.

All this, and the preceeding paragraph is also falsely represented. The fact was this; the Lieutenant Bailly delivered the two orders to the Greffier

who read them. The Constable of S. Peter's then immediately stood up; and proposed that the orders and petitions should be lodged au greffe, and that some means should be taken for paying immediate obedience to their Lordships' orders. He was seconded in this by the Rector of S. Martin's, who produced a motion he had prepared for that same purpose: he read the motion at length; he then put it in the hands of the Lieutenant Bailly, who began to make his objections to it. The Lieutenant Bailly never put a motion of his own to the votes; but he did not think proper, he said, to put that of the Rector of S. Martin's. He would, he said, go as far as the appointment of a Committee which was in the said motion, and he asked the votes thereupon. The opinion of the States was, that they approved of the whole proposition. The Lieutenant Bailly then forbid the Greffier from making an act of it, and, in order to please the Lieutenant Bailly, the original motion was changed to what it now appears on the records. This is an absolute fact. As to the number of the members who voted for the question, it is not possible to ascertain this matter; it is however sufficient that it is now an act of the States on record, so that the majority voted for it.

The act in question has been annulled, for want of having been passed conformably to the formalities prescribed in his Majesty's order of Council of 1771; but the merits of the question were not determined; and it is evident, from the very order, that the right was found to be vested in the States; otherwise that particular reason, (the want of formality,) would not have been assigned by their Lordships for cancelling the act above-mentioned. As to the order being sent to the Court to execute his Majesty's pleasure in erasing an act from the records of the States, this must have been a mistake in the officer; for it can never have been intended that the Court, who were a party in the contest, should execute the sentence of his Majesty on their adverse party; that they should be permitted to seize on a book of the States without their knowledge, conference and intimation, erase an act from their records, and without so much as informing the Lieutenant Governor of their intention. *V. p. 76, l. 12*

This matter therefore cannot be considered, as the Lieutenant Bailly would have it taken, as casting a disgrace upon the States, but rather as an oversight in the address of the order.

The reason why this act was not lodged au greffe for fourteen days was a reason of necessity. A day had been appointed by the Lords of the Council to hear the matters between the States, and the several members of the Royal Court; that day was within 11 days of the time on which this act passed for sending over M. Dumaresq as Deputy of the States. If therefore the States were to appear at all before the Council by means of an agent; this formality could not possibly be complied with; and the news of the appointment had come but two days before. The Court, on the other hand, had an agent in London who was warmly supporting their



cause, and endeavouring to have their matters brought on in absence of the person acting for the States.

If no act of the States can be legal without the assent of the majority of the Jurats; the Jurats indeed, as they pretend, have a negative: but then how are the States to defend themselves when they have the misfortune to be attacked by the majority of the Jurats? This, like the former article is quite a new doctrine; and if the Jurats have this right, no doubt the other two bodies of the States have it also, and then no manner of business will be got through. But how comes it that the Lieutenant Bailly should so boldly assert this as law, when the Petition of 69 inhabitants, (signed by the King's Procureur, his adviser in all these matters,) prays that his Majesty will be pleased to order, that for the future no act of the States shall have the force of law without the concurrence of the majority of each of the three bodies? This clearly demonstrates that what the Lieutenant Bailly here lays down as the law, the 69 Petitioners pray for, as an innovation for the future.



AT THE COURT AT S. JAMES'S, THE 23d. APRIL 1784

P R E S E N T,

T H E K I N G ' S M O S T E X C E L L E N T M A J E S T Y,

L O R D P R E S I D E N T, V I S C O U N T G A L W A Y.

D U K E O F C H A N D O S, L O R D S Y D N E Y,

D U K E O F D O R S E T, L O R D M U L G R A V E.

E A R L O F A Y L E S F O R D, W I L L I A M P I T T E s q<sup>r</sup>.

V I S C O U N T H O W E,

**W** H E R E A S there was this day read at the board a report from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 20th. of this instant, in the words following, viz :

Your Majesty having been pleased, by your order in Council of the 21st. of January last, to refer unto this Committee the humble Petition of Edward Le Maistre, David Patriarche, Nicholas Fiott, Francis Le Breton, Richard Le Feuvre, John Du Parcq, Francis Valpy, Amice Biffon, Francis Le Couteur, George Bertram, Thomas Sivret, Charles Marinel, John De Carteret, James Pipon, John Dumaresq, George Sivret, Thomas Labey, and John Du Pré, being the major part of the members of a full assembly of the States of the island of Jersey, complaining of sundry proceedings

of the Lieutenant Bailly of the said island; and among others, that he has, at different times, refused to convene the assembly of the States upon interesting subjects, although he has been earnestly requested and sollicitated to that purpose by several members of the States, as well from the body of the Jurats as from the Clergy and Constables, by which means the States have been deprived of the power of acting as a corporate body, and publick affairs have been neglected; and therefore humbly praying, that your Majesty will be graciously pleased to order, that the States may be permitted, freely and without any hindrance, obstruction or delay, to proceed to answer two late orders from the Lords of the Committee of your Majesty's most honourable Privy Council, bearing date the 20th. of may 1783, by the usual and accustomed means; and also, in the same manner, to proceed to do all other kind of business as States.- The Lords of the Committee, in obedience to your Majesty's said order of reference, this day took the said Petition into their consideration, and have put the said several articles of complaint against the said Lieutenant Bailly in a way to be further heard before this Committee; and the Lords of the Committee, finding, that by an order made by your Majesty in Council on the 11th. of july last, your Majesty was pleased to declare, that pending the prosecution of the appeal to your Majesty in Council, touching the contested election for the place of constable for the parish of saint Martin, neither the late Constable nor the eldest Centenier of the said parish should sit in the assembly of the States of the island of Jersey; but that, in the mean time, and until the further signification of your Majesty's pleasure, the States of the said island of Jersey should be taken and deemed to be competent to return their answer in writing to the several matters contained in a Petition and Representation of the Bailly and Jurats of the Royal Court, as also in another Petition of several of the inhabitants of the island of Jersey, complaining of sundry proceedings of the said States, (which Petitions were annexed to the said two above-recited orders of the 20th. of may 1783) and to do all other acts as States of the said island of Jersey. The Lords of the Committee are humbly of opinion, that it may be sufficient for the present, for your Majesty to order, that the States of the island of Jersey be forthwith convened, and that they do proceed to do all acts appertaining to them as States of the island of Jersey, conformable to the tenor your Majesty's said order of the 11th. of july; and particularly to return their answers in writing to the above-recited orders of the 20th. of may last, confining their proceedings thereupon simply and specifically to the matter of the said complaints, without mixing any other matter or thing whatsoever.

His Majesty taking the said report into consideration, is pleased, with the advice of his Privy Council, to approve thereof, and to order; and it is hereby ordered, that the States of the island of Jersey be forthwith convened, and that they to proceed to do all acts appertaining to them

as States of the island of Jersey, conformable to the tenor of his Majesty's said order of the 11th. of July 1783, and particularly that they do return their answers in writing to the said above-recited orders of the 20th. of May last, confining their proceedings thereupon simply and specifically to the matters of complaint contained in the Petitions annexed to the said orders, without mixing any other matter or thing whatsoever. And the Governor, Lieutenant Governor or Commander in chief of the island of Jersey for the time being, the Bailly and Jurats of the Royal Court, and others the members of the States of the said island, and all others whom it may concern are to take notice of his Majesty's pleasure hereby signified, and govern themselves accordingly.

(Signed,) *Steph. Cottrell.*



## AT THE STATES OF THE ISLAND OF JERSEY.

16th. June 1784.

**T**HE States, having nothing nearer at heart than the welfare and prosperity of the inhabitants of this island, and desirous at the same time to apprise them thereof, think they cannot better effect the same than by putting them in a situation to be themselves witnesses of their deliberations and decisions; and to arrive at this end, they order, that for the future the States shall not be held with the doors shut, but that during their sitting the doors shall be left open and free for any of the said inhabitants or such other subjects of his Majesty who shall chuse to enter into the vestibulum only, except in extraordinary cases where the assembly of the said States shall think secrecy necessary.

(Signed,) *Ph. De Carteret greffier.*

*The above act having been approved of, five of the Jurats quitted the States, and the Lieutenant Bailly would not proceed to business in their absence.*

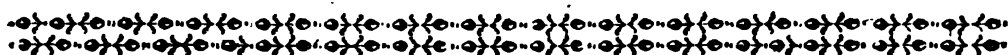
## AT THE STATES OF THE ISLAND OF JERSEY.

30th. June 1784.

**C**ONSIDERING that many members of the States have looked on the resolution of the last assembly on the subject of opening the doors, as contrary to the fundamental laws of the State, and an hindrance to the ordinary course of business; the States having solely had in view the publick welfare in this respect, and desirous to obviate every obstacle which

might retard the interesting affairs which offer to their consideration, and particularly the answers to the orders of the right honourable the Lords of the Council, which they are disposed to obey without delay; and in order also that the publick may not be deprived of the council and assistance of any of the aforesaid members in the discussion of affairs, have now resolved to suspend and stop the effects of the aforesaid act, until such time as his Majesty's pleasure shall be known upon the subject; and have adjourned the holding of the States upon their ancient footing.

(Signed,) Ph. De Carteret greffier:



*Letter to the Lieutenant Bailly by the Committee of the States.*

*Jersey, July 14th. 1784.*

S I R,

WE the Committee appointed by an act of the States, bearing date the 11th. June 1783, to prepare an answer to the Petition and Representation of the Lieutenant Bailly and some of the Jurats of the Royal Court in conformity to an order from the Lords of the Committee of Council of the 20th. of May 1783, and to an order from his Majesty in Council of the 23d. April 1784, cannot help expressing the expectations we had formed, after the readiness that appeared in the last meeting of suspending the act that seemed to have given offence to some of the members of the States, that an early day would have been fixed upon for the convention of the said States for the purpose of fulfilling his Majesty's and the Lords of the Committee's commands, we beg to suggest to you that the answers in question have now been for some time ready, and that we had reason to hope that no further application on our part would have been necessary to procure the convention of the States. As we find however no measures taken for that end, we have to request that you would be pleased to call the States together as soon as possible, that they may have the means afforded them of paying immediate obedience to his Majesty's and the Lords of the Committee's commands.

We further think it our duty to acquaint you, that we have received information from Mr. Fawkenor, clerk of the Council, by command of my Lord President, that the hearing of the matters above mentioned is appointed for the 30th. instant, and that the States are without loss of time to return their answer to the right honourable the Lords of the Committee of Council, to be prepared for the hearing of that day accordingly.

We

We have the honour to be;

Sir,

Your obedient humble servants;

Ed. Le Maistre, . } Jurats.  
Nic. Fiott, . . . }

Francis Le Breton, dean of Jersey, and rector of St. Saviour's

Fr. Le Couteur, rector of St. Martin's.

Ch. Marinel, constable of St. Helier's.

John Dumaresq, constable of St. Peter's.

James Papon, constable of St. Brelade's.

Minutes of the States upon the Lieutenant Bailly's leaving the assembly on the  
25th. july 1784.

# P R E S E N T,

Edward Le Maistre, Francis Marett, Nicholas Messervy, Nicholas Fiott, Ph. Le Hardy, jurats;— Mefs<sup>rs</sup>. the Dean, Le Feuvre, Du Parcq, Valpy, Le Couteur, Biffon, Bertram, Sivret, Dupré rectors;— Mefs<sup>rs</sup>. the Constables of St. Helier, St. Ouen, St. Peter, St. Clement, St. Brelade, Ste. Mary, Grouville, St. John, Trinity, St. Laurens, St. Saviour.

The States having been convened to meet on this day by the Lieutenant Bailly, in consequence of a request made to him in writing from several members of the Committee appointed by act of the 11th. june 1783 to prepare the answer of the States to a Petition of several members of the Royal Court, and also to another Petition of several inhabitants; which request has been made this day in the States by the Lieutenant Bailly, and an authentic copy delivered into the hands of the Governor present in the States.-- The question was first moved, according to the usual and accustomed form, to know whether the States were compleet, when it appeared that Joshua Papon, Elias Papon, Charles Payn, Ph. Robin, and John Poingdestre esquires were not present, notwithstanding the proper officer certified that he had summoned them in conformity to the order of the Lieutenant Bailly. It was then proposed to the Lieutenant Bailly to proceed according to the invariable usage to fine the absent; but the Lieutenant Bailly did not think it proper to put the question to the States, notwithstanding the willingness all the members shewed to remove every obstacle that might prevent them from paying immediate obedience to the orders of his Majesty and of the Lords of his Council. He declared this assembly not to be the States, on account of the absence of the above-mentioned Jurats, notwithstanding the presence of five other Jurats, viz: Edward Le Maistre, Francis Marett, Nicholas Messervy, Nicholas

Fiott, and Ph. Le Hardy esquires; yet said he thought it competent to return answers according to the orders of his Majesty and the Lords of the Council, though these orders to return answers are addressed to the States. He therefore asked the members present whether they chose to proceed to the said answers, who were of opinion it was first necessary to fine the absent, and declared that they were afterwards ready to hear the said answers read and to send them without delay; upon which the Lieutenant Bailly immediately retired from the assembly, leaving the members of the States in the greatest uncertainty how to proceed, and what means to adopt for transmitting the answers of the States to his Majesty. Persuaded however that the Lieutenant Governor, in his zeal for the service of his Majesty, will give a faithful account of this unexpected event to his Majesty, the undersigned members ( in number 19 ) have resolved to intreat him to inform his Majesty of these proceedings, and at the same time to request the said Lieutenant Governor to hear the said answers, read, and after they shall have been signed by the members, to transmit them to the Lords of his Majesty's Council as soon as possible; all which was done in his presence.

(Signed)

*Edward Le Maître, 4* }

*Nicholas Fiott, . . .* } *jurats.*

*Philip Le Hardy, . . .* }

*Fr. Le Breton, dean of Jersey and rector of S. Saviour's,*

*Richard Le Feuvre, rector of the parish of St. Peter's.*

*J. Du Parcq, rector of St. Ouen's.*

*Francis Valpy, rector of St. Mary's.*

*A. Biffon, rector of St. Laurens's.*

*G. Bertram, rector of St. Clement's.*

*Fr. Le Couteur, rector of S. Martin's.*

*Th. Sivret, rector of St. John's.*

*Ed. Dupré, rector of S. Helier's.*

*John Dumaresq, constable of S. Peter's.*

*J. De Carteret, constable of S. Ouen's.*

*James Pipon, constable of St. Brelade's.*

*Ch. Marinel, constable of S. Helier's.*

*Th. Labey, constable of Grouville.*

*John Du Pré, constable of St. Mary's.*

*John Arthur, constable of S. John's.*

*Answer of the States delivered into the hands of the Lieutenant Governor to be transmitted to Council.*

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*To the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey.*

MY LORDS,

**I**N obedience to an order from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 20th. day of may 1783, directing the States of the island of Jersey to return their answer in writing to sundry matters of complaint contained in a Petition and Representation of the Lieutenant Bailly and several Jurats of the Royal Court of the said island, and also in obedience to his Majesty's most gracious order in Council, bearing date the 23d. of april 1784, the States having duly considered the several matters contained in the said Petition, humbly beg leave to return the following answer to your Lordships.

*Answer to the first article against the act of the States of the 10th. july 1782.*

The act is as follows:

» The States, considering how necessary it is at this present time to  
 » attend to the maintenance of the rights, privileges, and liberties of the  
 » publick, and having confidence in John Dumaresq gentleman, constable  
 » of the parish of St. Peter, have requested and authorized him to act  
 » to this effect, and to lend his care and attention to the preservation  
 » of the privileges of the island.

This act is objected to for substituting an individual member of the States the guardian of the privileges of the island, in the room of the Lieutenant Bailly, of the Jurats, and of the King's officers. On the face of the act, which is here above recited at length, it will evidently appear to your Lordships, that no substitution is made, no exclusive power granted, or reflection cast on the characters alluded to. A special authority is given to a member of the States to attend to the preservation of the privileges of the island. The question is therefore, whether the States have the right of deputing, and have been accustomed to depute one of their own members to maintain their privileges or the privileges of the island? In support of this right the following precedents are submitted to your Lordships.

On the 19th. march 1684, Sir Philip de Carteret, Bailly of the island, is

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commissioned and authorized by the States to solicit a renewal and augmentation of the privileges of the island and all other publick advantages in his power.

On the 2d. february 1687, by another act of the States, Sir Philip De Carteret is again requested to employ himself, when he shall think it expedient, for the good and welfare of the island.

On the 21st. august 1690, the States deputed and authorized Messrs. Bandinell, Grandin, and Dumaresq to act for the support of the laws and maintenance of the privileges of the island.

On the 12th. july 1729, the reverend Thomas Seale receives the thanks of the States for having supported the rights and privileges of the natives of the island,

On the 10th. december 1744, Thomas Le Breton gentleman, constable of the parish of S. Peter, is specially commissioned by the States to support the privileges of the island against the pretensions of the Governor, the King's Procureur, and the King's Receiver; and by the same act he is substituted in the room of the King's Procureur, who had before received from the States the like authority, which was now recalled.

On the 12th. march 1744, by another act of the States, M. Le Breton is again deputed to support the rights and claims of the inhabitants against the Lieutenant Governor; and Charles Lempriere esquire is appointed to act with him in all the branches where the privileges of the island are in any way concerned.

On the 24th. march 1764, M. Lempriere is again requested and authorized by the States to attend to every incident which may concern the advantage of the island, and particularly the preservation of its privileges and franchises.

On the 3d. of april 1782, the present Lieutenant Bailly, being on his departure for England, is requested and authorized by the States to take every measure necessary for the preservation of the privileges of the island, in all their extent.

These and various other precedents, applicable to the present question, which are quoted in answer to the next article, from the year 1603 to the present time, clearly and incontestably prove, that the States have proceeded herein agreeably to ancient and continued usage; and the right of exercising this privilege will be found expressly acknowledged and confirmed by an order from the Lords of the Council, dated the 21st. of july 1680, herein after mentioned.

The points of usage and of right being then established; if it be necessary to speak to the propriety of this appointment, your Lordships will be pleased to consider that, on a late occasion, the voice of the people



had been injuriously disregarded, and one of their most valuable privileges infringed by the Court's rejection of the Constable of the parish of S. Brelade duly elected and returned, and by the Court's appointment of a substitute to represent the said parish in the States, expressed by their acts of the 27th. of february, and 9th. of march 1779. Your Lordships will also be pleased to observe, that this rejection was without any lawful grounds, as appears by his Majesty's most gracious order in Council thereupon, dated the 18th. of may 1781, and that, had not the States interposed on this occasion and obtained redress by means of the order above-mentioned, the parish of S. Brelade would be at this time deprived of its true representative.

The States beg leave further to assure your Lordships, that, for want of some persons being specially authorized to take charge of public concerns and pursue the just claims of the community in several late instances, the island, at this moment, lays under many heavy and irrecoverable losses. With respect to the choice of the person named by the States, no objection can possibly and consistently arise on the part of the Royal Court, however zealously attached to the rights of the people, or scrupulously jealous of the title of exclusive guardians of the public liberties; for the charge hereby given to M. Dumaresq is almost literally (though not in such powerful terms) conformable to the oath administered twice every year by the Lieutenant Bailly to him, as advocate of the Royal Court, in these words:

» You shall preserve the rights of his Majesty and of his subjects, and  
 » support the honour of God and of his church. You shall defend and  
 » maintain the privileges, franchises, customs and liberties of the island,  
 » opposing yourself to who soever shall be willing to infringe them, &c.

On whatever grounds therefore this first article of complaint be examined, the States humbly hope it will appear unto your Lordships void of foundation and support: and it will be found frivolous, if it be but considered that no ill consequences whatever have resulted or could possibly result from the vote so much objected to; that it could only be the means of procuring additional exertions for the publick good; and be attended with no expence, trouble or disadvantage whatever to the publick.

*Answer to the second article against the act of the States of the 9th. of  
 October 1782.*

By this act the sum of thirty guineas is raised on the whole island, to defray the expence of laying before his Majesty in Council the answer, which the States were directed to return to the Lords of the Committee of Council upon the Petition of several Jurats of the Royal Court. There are two acts of the day on the subject, which are as follows:

„ The Committee, which was appointed by act of the 19th. of September last, to prepare an answer to the right honourable the Lords of his Majesty's Council upon the Petition of several members of the Royal Court, having presented and read the said answer, the States have approved of it, and ordered it to be signed by the Greffier in the names of the States, and then put into the hands of the said Committee, to be transmitted to England, in conformity to the order of the said Lords of the Council. „

„ The Committee appointed by act of the 19th. of September last, having reported to the States that it is necessary to remit immediately, to a solicitor in London, the means to defend the cause before his Majesty's in Council on which depends the preservation of the privileges of the publick and rights of this assembly, to maintain them; and that it would be proper to name and authorize a person to give advice to the said solicitor and to transmit to him the papers and evidences necessary in this business. The States, in consequence of the said report, have now named and authorized John Dumaresq gentleman, constable of the said parish of S. Peter to act for the above-mentioned purposes, and have ordered, that the sum of thirty guineas shall be paid into his hands, in fifteen days, by the Constables, according to their proportion in the publick rate, and which shall be charged by them in the account of their respective parishes, as it hath been formerly practised in the like case, the said person, so authorized, acting by the advice of the other members of the said Committee, who shall inform the States, from time to time, of the proceedings in this affair, so important to the States and the publick, and of the demands which they may think necessary for the purpose, that they may be provided for by some publick means. „

The subject of this Petition, appearing to the States to affect materially the privileges of the island and the duty and rights of the States in maintaining those privileges; the States proceeded therein with every usual and prudent formality. On the 31st. of August 1782, the order from the right honourable the Lords of the Committee of Council was laid before the States for their answer. The States, by an act of that day, lodged the Petition and order au greffe, that every member of the States might duly weigh the subject and consider of the means of deferring with all possible expedition to their Lordship's said order, adjourning at the same time the meeting to the 19th. of September. On the 19th. of September, the subject came again under consideration before the States, when it was thought proper to appoint and authorize the Committee above-mentioned to prepare the said answer, to take into their consideration the means of defending the cause in question, and to adopt such measures as would appear to them most proper for representing the importance of the cause before his Majesty in Council. This meeting further adjourned

to the 9th. of october, to hear the report of the Committee and finally determine thereupon. The Committee made their report accordingly to the States, and on the 9th. of october, they produced the answer which was approved of. They reported that it was necessary to raise the sum of thirty guineas to be remitted immediately to a solicitor in London, and that it was proper to authorize some person to correspond with the said solicitor, and to transmit to him the necessary writings and evidences. The States accordingly, on the 9th. of october 1782, after full and mature consideration of the subject, again ordered the aforesaid sum of thirty guineas to be raised on the different parishes of the island according to the ancient and usual rate thereof, to be paid in the hands of that member of the State who was authorized to correspond with the said solicitor, acting with the advice of the said Committee, and the Committee enjoined to inform the States, from time to time, of their proceedings in this business. Such were the measures and precautions taken with respect to the matter here complained of, as passed in a precipitate manner; and here it is proper to inform your Lordships, that the report of a Committee of the States is never, on any occasion, lodged au greffe for further consideration, the reference of any subject to a Committee being considered as the fullest investigation that can be given to it, and the constant practice of the States being to proceed on their report, either rejecting, amending or admitting the same. In a very late instance, as recent as the 2d. of june 1784, a Petition addressed to General Conway was produced to the States by the Committee appointed to prepare it; on this occasion an idea was suggested by one member to lodge the letter au greffe for his further consideration; upon which it was held forth by the Petitioners themselves, and it was universally acknowledged by the States and by the King's Procureur, that this delay would militate against the invariable usage of the States: the Petition therefore was approved of, was signed by the Greffier and transmitted to General Conway by the Lieutenant Governor, as appears by act of that day.

With respect to the right of raising money by general rate on the inhabitants, for this or any other publick purpose, the following number of precedents, traced from the year 1509 to this present time, and supported by orders in Council, prove that the States of Jersey have ever held and exercised the right of raising money upon the publick or of appointing deputies at the publick expence whensoever they have found it expedient, either for the maintenance of their own rights, the preservation of the privileges of the island, the support of the jurisdiction, or the relief of the inhabitants, in opposition often to their Governors, Lieutenant Governors, King's Officers, members of their own body, or individuals.

And here it may next be proper to state the confirmation of the ancient right and powers of the bodies of the States, in the ordinances of

Royal commissioners in the 33d. year of the reign of queen-Elizabeth.

After the authority and competency of the Jurats of the Royal Court are there established, comes the following article : " it is also ordered " agreed and declared, that all other causes of greater weight and importance which concern the said island, and do not touch the supreme government thereof which is always reserved to her Majesty, her heirs and successors, and to the Governors appointed from hence, under her highness her heirs and successors, in which the said Governor may receive the opinion and assistance of the said Jurats and States, shall remain as heretofore from time immemorial in the disposition of the body of the States of this island, which are the 12 Jurats, the 12 Ministers and the 12 Constables, &c.

By an act of the 10th. of september 1603, the States ordered the balance of costs of their deputies to England to be collected on the parishes according to the ordinary rate of the island.

On the 28th. of october 1605, a Committee of the States, which had been appointed to prepare an answer to a certain commission or order from the King, laid before the States the articles they have got ready for the purpose, which are approved of. Further directions and powers are also given them on the subject and it is hereby ordered by the States, that the expence and costs, made and to be made by the said Committee, in execution of the said commission, shall be levied and collected upon the publick of the island, by the rate and antient assize, when it shall be required by the said Committee. "

In the years 1605 and 1606, several deputies were sent over to England, by the States, to solicit from his Majesty the grant of Royal Commissioners, for the purpose of revising and correcting the laws of the island, and the expence of their voyage, their costs and charges, were all raised on the parishes, according to the antient rate of the island, as appears by acts of the States of the 10th. january, 10 march, 23d. april, 14 june, and 19 june 1606, notwithstanding a formal opposition to this from Ph. De Carteret King's Procureur, as well to the sending of the deputies as to the payment of their costs on the publick. Commissioners were accordingly granted to this island, by a subsequent order from his Majesty, dated the last day of august 1606.

The 20th. february 1626, Ph. De Carteret Jurat, and Elias De Carteret King's Procureur, are appointed general attornies and special messengers of the States to his Majesty, for the recovery of the privileges of the island, and the States promise in the name of the inhabitants to defray the costs and interest of their voyage.

The 9th. may 1661, the States appoint Sir Philip De Carteret and Edward De Carteret esquires, their deputies, to oppose a duty claimed by

by the Governor on the goods of strangers, and the sum of 600 livres is advanced to them by the publick.

On the 7th. may 1662, the sum of 1000 livres is placed in the hands of John Nicolle esquire, for his deputation to England, and is levied by the Constables, by order of the States, according to the ordinary state of the island.

On the 13th. september. 1662, another sum of 600 livres is sent to the said Nicolle.

On the 27th. february 1665, the States order the sum of one hundred crowns to be paid by the Constables to Edward De Carteret esquire, their Deputy.

On the 10th. august 1671, the expence of the Deputies of the States sent over to obtain relief from certain orders from his Majesty, amounting to 100 livres, is ordered to be paid by the Constables.

On the 9th. january 1671, the sum of 500 livres is paid to the same Deputies, for the same purpose, and is taken from the duties on wines, granted by Charles II.

On the 4th. june 1672, the sum of forty pounds sterling is paid to the same Deputies.

On the 8th. april 1673, a further sum of 228. livres is paid to the same, and raised by publick contributions.

In the years 1679 and 1680, many difficulties having arisen between Sir John Lanier, Governor of the island, and the States, with respect to the right of raising money upon the inhabitants, the following order of Council was issued hereupon, and addressed to the States :

After our hearty commendation unto you; whereas it doth appear to us, as well by many former precedents, as by a late representation under your hands, that it is the antient and usual custom of the island of Jersey, to authorize and depute some trusty person of that isle to attend this board in the quality of your attorney, and in your behalf, to represent (upon occasion) the antient rights and privileges of your isle, that due regard may be thereunto had. And whereas it doth likewise appear to us by the said representation, that Sir Edward De Carteret Knight was authorized and deputed by you to attend this board, and in the time of his attendance here had expended several sums of money, which, being audited and allowed by you to be due and payable to the said Sir Edward De Carteret in satisfaction of his disbursements and pains therein, was however not levied by reason of some doubts remaining with Sir John Lanier, Governor of the said island, concerning the legality of levying money by general tax for the said purposes, till order and directions might be given from this board.

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„ We do therefore will and require you to cause levies to be forth-  
 „ with made, according to the antient rate and use of the said isle, of  
 „ such moneyes as you have thought fit to allow the said Sir Edward  
 „ De Carteret for his great charge and diligent attendance in the said  
 „ service, and the money so levied to cause to be paid without delay to  
 „ the said Sir Edward De Carteret. And so we bid you heartily fare-  
 „ well from the Council Chamber at Whitehall this 21st. day of July 1680.

„ Thus signed and wrote in the original.

„ (Subscriptions.) „

„ Your loving Friends, „

„ To our loving Friends  
 „ the three Estates of the  
 „ island of Jersey. „

„ Radnor. „ „ Finch. „  
 „ Arlington. „  
 „ Present, „ Worcheſter. „ „ Bathe. „  
 „ L. Jenkins. „ „ Francis Gwyn. „

On the 28th. august 1680, immediately on the reception of the above order the sum of 2444 livres is ordered to be raised by different means on the publick, and paid to Sir Edward De Carteret the Deputy of the States.

On the 2d. october 1684, the States order that the expence of presenting certain Petition to his Majesty shall be taken on the duty of average commonly called the petite coutume,

On the 19th. march 1684, the sum of 1200 livres is ordered to be levied by the Constables according to the usual rate of the island, and paid to Sir Philip De Carteret, in order to solicit the ratification of the privileges of the island and other publick advantages mentioned in this act.

On the 2d. february 1687, the Constables are directed by the States to pay to Sir Philip De Carteret a further sum of 800 livres to be levied according to the usual rate.

On the 20th. august 1691, an order is given to the Constables to pay to Messrs. Bandinel, Grandin, and Dumaresq, the sum of 107 pounds 10 schellings 7 pence sterling, to be raised by them on all the parishes of the island according to the antient and accustomed rate.

On the 10th. january 1698, the sum of 12 pounds is sent to Mr. Durell, King's Advocate, to pay the expence of presenting to his Majesty a Petition from the States respecting bills of exchange.

On the 10th July 1699, the reverend Philip Fall is paid by the Constables the sum of ten pounds for his deputation.

On the 29th. september 1708 and 30th. september 1709, the States petition his Majesty for the recall of the officers of the customs, and the costs of this Petition and of the Deputies sent over on that account is paid partly by contributions, and partly on the publick rate of the island,

On the 12th. july and first november 1729, The reverend Thomas Seale having represented to the States that he had been instrumental in obtaining that the appointment of Dean of the island should be given to a native in preference to a stranger, the States, although they had not deputed or authorized him to incur any expences therein, yet considering this as a point gained in favour of the inhabitants, order the sum of 53 pounds 8 shillings sterling to be paid him for his costs by the Constables, in their proportion to the publick rate of the island.

In the year 1742, the Constables of the two towns and parishes of S. Helier and S. Brelade petitioned his Majesty in Council against certain regulations made by the States respecting the publick rate of the island. A copy of the Petition being transmitted to the States by the Lords of the Committee of Council, it was found necessary to appoint a Committee to prepare an answer, when four of the Jurats named for the said Committee and the President refused to act against the said Petition; whereupon, four other Jurats were appointed. The sum of 1400 livres was ordered to be taken from the duties on brandies to defend this suit; which sum not being found sufficient, the same Committee was authorized further to borrow, at interest, as much as would be necessary to support the proceedings of the States on this occasion against a very powerful opposition in the island, and against the votes and interest of seven of their own members; all which appears by acts of the States of the 21st. and 28th. of december 1742, of the 23d. july 1743, and of the 9th. of may 1745.

On the 20th. september 1774, the States order the sum of 25 pounds sterling to be taken from the same duties on brandy, and paid to John Le Hardy esquire, in order to pursue the effect of certain Petitions presented to his Majesty by the States.

On the 10th. december 1744, Thomas Le Bréton gentleman, constable of the parish of S. Peter, is again appointed Deputy of the States, to support the privileges of the inhabitants against the pretensions of Lord Viscount Cobham, governor of the island, and against those of the King's Procureur, and of the King's Receiver, who had obtained the orders of Council, which the States considered and were found afterwards to be contrary to the privileges of the island, his Majesty having been most graciously pleased to grant them redress. The costs of this prosecution, which were very considerable, were all levied by different means on the publick by subsequent acts of the States, of 12th. of march 1744 and 1745, of the 9th. of may and 1st. june 1745.

On the 28th. of october 1748, a complaint having been carried to his Majesty against the Royal Court, respecting their management of the duties on brandies, and the Royal Court, being summoned to answer to the

said complaint, brought the matter before the States, who, in defence of the Royal Court, appointed and authorized Thomas Le Breton, constable of S. Peter aforesaid, to represent the case before his Majesty in Council, and ordered the sum of thirty pounds sterling, or more if found necessary, to be raised for that purpose upon the said duties on brandy.

On the 5th. of July 1755, the States order the sum of 50 pounds sterling to be put in the hands of the said Thomas Le Breton, by the Constables of the island, to answer to the summons obtained by the executors of M<sup>r</sup>. Bartley's will against him, as Deputy of the States, without prejudice to the payment of the remaining charges of this suit.

On the 12th. of March 1768, the States appoint and authorize a Committee to borrow, at interest, upon the credit of the duties on brandy, the sum of twelve thousand livres order-money to be applied to the building of the Court-house. The money was accordingly borrowed and applied as above; this sum was afterwards repaid in small portions by means of the annual produce of the said duties.

On the 21st. of June 1769, Thomas Pipon gentleman, having been appointed Deputy of the States to solicit from Parliament certain points for the benefit and encouragement of the Newfoundland trade from this island, and a Committee named to settle the business and charges of his deputation, the sum of one hundred pounds sterling is advanced by the merchants for this purpose, and the balance of his account, amounting to 108 pounds 16 shillings 6 pence sterling, is ordered to be paid by the Constables of the island.

On the 1st. of December 1770, several sum of money are ordered to be forthwith levied by the Constables in their parishes for different purposes.

On the 31st. of December 1770, the States appoint Thomas Pipon gentleman, son of Joshua ( the present King's Procureur ) their deputy in England, at one guinea per day.

On the 18th. of July 1772, the Constables are directed to pay, without delay, the sum of 2112 livres 13 sous 2 deniers for the building of a market at S. Aubin's.

On the 19th. of October 1774, the States order that the expences advanced by M<sup>rs</sup>. Durell and Gosset on the building of a pork market at S. Helier's, shall be repaid them by the Constables in the course of a month.

In the year 1775 the inhabitants of the town and parish of S. Helier, forming a very large and reputable part of the community of the whole country, representing one fifth in the publick rate of the island, amongst whom are several members of the States and of the Royal Court, and one of the King's Officers, presented an humble Petition and Complaint



to his Majesty against the States, respecting their management of the affairs of the General Hospital. Copy of the said Petition and Complaint was transmitted to the States, and the States returned their answer. On this occasion as on the present, the States, by their act of the 11th. of October 1776, proceeded, immediately upon the report of their Committee, to order the sum of sixty pounds sterling to be paid by the Constables into the hands of persons authorized to remit the same to a solicitor in England, in order to enable him to maintain the defence of the States before his Majesty in Council against the pretensions of the petitioners: such are the terms of the act against, which several of the petitioners, present in the States, offered their protest. This opposition, however powerful and respectable, did not prevent or invalidate the measures taken by the States. The publick, not only paid the whole expence of this suit, but allowed a handsome gratification of 500 livres to the present King's Procureur for his pains in preparing the necessary writing in this business, as appears by act of the States of the 12th. of May 1780; and it is no less true than remarkable, that the majority of the present petitioners supported the States on that occasion, and voted for the resolutions and proceedings of the majority so immediately corresponding with the act they complain of.

By these and by various other recorded precedents, by the high authorities above-quoted and the usage established, the States humbly hope it will be proved to the satisfaction of your Lordships that the States of Jersey have an unquestionable right of raising money upon the inhabitants whensoever it is found expedient; that the States have never, in any single instance, borne, as individuals, expences incurred by them as a corporate body; but that, from time immemorial, the publick of the island or some publick fund or other, have been charged with the costs of pursuing or defending what the States have considered as publick advantages.

*Answer to the 3d. article against the same act of the States of the 9th. of October 1782.*

The Petitioners further complain, that the majority of the States did not sign their answer to the Lords of the Committee of Council, but directed the Greffier to sign it. This objection is but of little importance and needs but little consideration to be effectually removed. The Petition which the States had to answer on that occasion was, as it is at present, the Petition of nine individuals against an act of the States; and the order from the Lords of the Committee was consequently directed to the States. A publick act of the States was the subject of complaint, and the corporate body, by whom this act was made, was the respondent. An answer signed by any number of the members could no more be admitted as the answer of the States, than the same number could venture to authenticate any act of the States of the island.

Therefore the Greffier, who is the publick register and recorder of the States, by whose sign manual only any act of the States whatsoever can be authenticated, signed the answer; and in the present instance, the States would hold themselves reprehensible did they return to your Lordships an answer which was not the answer of the States as your Lordships require, or did they sign, as individuals, answers to questions put to them as a corporate body. With respect to the usual practise of the States in similar cases, it cannot well be established by recorded evidence. Yet it does not appear upon record that the States have ever proceeded otherwise than in the present instance. On the 23d. july 1743, the answer of the States to the Petition of the Constables of St. Helier's and St. Brelade's, which had been prepared by a Committee, is said to have been approved of in the States and transmitted to Council. No indication appears in this act of the signing of the answer, and by whom. The answer which the States returned to a Petition of the inhabitants, on the 14th. of august 1773, leaves the matter likewise unexplained. But on the 27th. of july 1780, 22d. of february 1781, 10th. of july, and 31st. of august 1782, several Petitions, Letters, and Representations of the States were signed by the Greffier by order of the States, and on the 2d. of june 1784, the Greffier signed the Petition which the States presented to General Conway, as prepared by the King's Procureur, although several members of the States strongly objected to this mode of application; yet it was signed by the Greffier with the consent of seven, out of the nine, present Petitioners.

Another part of this article complains that the answer was surreptitiously taken away and refused to the Lieutenant Bailly, by whose channel it should have been transmitted.

To this charge the States have to reply, that the answer was brought and read publickly before the States, that it was approved of and signed by the Greffier in presence of the assembly, that it was then returned to the Constable of St. Peter's, who was charged by order of the States to transmit it to Council, and that the answer was immediately sent over, and that all this was done in an open and not a surreptitious manner. But it seems inconsistent, that the Lieutenant Bailly should complain of not having this answer to examine, when he had refused attending the Committee appointed to prepare it, as it was his duty. There he would have had an opportunity, not only of examining, but of controverting every part of it; and for what purpose the Lieutenant Bailly was so anxious to have the transmitting of this answer of the States against which he had taken a decided part, it is not easy to imagine; for on the 23d. of january 1782, having called together six of the Constables in a private room, he had declared his sentiments on the matter, and remonstrated to them on the point which was to be debated; and which has made the subject of the complaint and answer in question.

*Answer to the 4th article.*

The Petitioners here complain that the respect and deference, which are due to the Lieutenant Bailly, have been, on several occasions, most grossly violated. To this general charge the States can have but a general answer to give, viz : that they have not been wanting in respect to the Lieutenant Bailly, on any occasion, nor have been witness to the gross violation of it which is here complained of; but, as it is not explained to what degree the Lieutenant Bailly expects a deference from thirty five members of a corporate body, the States may possibly have given him offence in this respect, for they will freely confess that they have often seen many members of the States differ in opinion with the Lieutenant Bailly, although he takes care to give them an opportunity of knowing his sentiments on every subject, before their opinion is taken. Yet it may not be improper to remark that the Lieutenant Bailly would have little reason to complain on this head, had he more respect for the high and important office he fills, and did he not often descend from its dignity by severe and contemptuous reflections, sometimes on the whole body of the States, sometimes on individual members, by unbecoming comparisons of family and fortune, by taking a decided part in every contest, and by refusing to put to the votes of the States every measure which does not meet with his approbation. As a proof of this, the States humbly beg leave to refer your Lordships to a Petition signed by eighteen members of the States, now before his Majesty in Council.

*Answer to the 5th. article against the act of the 30th. October 1782.*

By this act the Centenier of the parish of S. Martin, who was summoned to attend the States, is declared not duly qualified, and the Constable is ordered to attend. The act is as follows :

“ The Centenier of the parish of S. Martin, having presented himself to assist at the States, as representative of the said parish, the States have judged that the Constable is obliged to act in the assembly of the States, until another Constable be sworn in his stead, and that forasmuch as he is properly the representative of the said parish, until he be replaced by the oath of another, the law admitting of no interregnums in the office of Constable, and not accepting the Centeniers in their stead, but in cases of indisposition of the Constable, absence from the island, or other such like impediment, which always supposes that the Centeniers have a chief. Wherefore they have judged the assembly incomplete and incapable of proceeding to publick business; and it has been ordered that Mr. Nic. Richardson, constable of the said parish, shall be summoned to attend at the next States. ”

The state of the question is therefore, whether a Centenier can sit in the States as representative of a parish in any other capacity than as the substitute of the Constable; or whether a Constable can represent his pa-

rish in the States for any term longer than three years, or until he be replaced by the oath or appointment of another? Here it is proper to observe to your Lordships, that between two articles of the code of laws of the island there appears a manifest contradiction. The one is " that the Constables shall attend the States in person, and the Centeniers shall not be admitted in their stead, but in cases of indisposition, absence from the island, or other such like impediment. " The other, " that the Constables shall not continue in office longer than three years, after which term the King's Officer shall apply to the Court to order another election according to usage. "

By this last article, the office of Constable is limited to three years: yet no application is to be made to the Court for a new election till that term is expired, during which space, and until another Constable is sworn the parish must remain without a chief of police, and without a representative. By the first article, on the other hand, it is evident the law presumes the office of Constable to be constantly filled in every parish; it allows the Centeniers to be, in certain cases, the substitutes of the Constable; but it clearly admits of no interregnum in the office. It is therefore reasonable to understand, that the Constables are replaced in their office by the oath or appointment of their successors; and that this is the spirit of the law, and was the views of the legislator, is evident from the ancient and immemorial usage with which the first mentioned article exactly corresponds, and to which the last article alludes. Before the year 1770, the Constables remained in office until they thought proper to ask their discharge, and in no single instance did it ever happen that a parish was without a Constable.

The States are also in this article accused of having usurped a judicial power; how far this accusation is founded, will appear to your Lordships by the same ancient and immemorable usage which is applicable to every part of this question.

By an act of the States, as remote as the 5th. of July 1597, it is declared, that " forasmuch as the Constables, who have been already long continued in their office, had heretofore asked of the States to be discharged, and the States had promised to give them an answer thereupon, and having considered their good administration for the past, for which notwithstanding they receive no salary, and that it would not be reasonable always to continue them without some relaxation, have ordered that the said Constables shall make choice and nomination of two persons of their parish, by the majority of the votes of the parishioners, whom they shall present the saturday after next Michaelmas, one of whom shall be established Constable and shall so continue three years, on condition of being afterwards discharged if he asks it. "

On the 6th. of September 1686, Richard Dumaresq is permitted, by the

the States, to accept the office of Constable of S. Helier, on condition of being discharged from it at the end of two years.

Another act of the States, dated the 18th. of may 1685, is as follows:  
 " To remedy an abuse that prevails in consequence of some of the Constables' imagining that a part of the assistance which they owe to the States might be supplied by the Centeniers of their parishes, whenever they chuse to send them; the States of the island, this day assembled in a body, having found it expedient to declare, that for the future none of the Constables shall be exempted from giving their personal assistance to the States, without due and lawful excuse; of which the States shall then judge. "

And, on the 31st. of july 1770, the following regulations, respecting the Constables, Centeniers and Vinteniers, was enacted by the States:  
 " At the request of the honourable Rudolph Bentinck, commander in chief and Lieutenant Governor of this island, the States, conformable to ancient usage and to the power given to the States by the ordinances of the Royal commissioners, under the reign of Elizabeth of happy memory, to fix the duration of Constables, Centeniers and Vinteniers, have ordered that the Constables, Centeniers and Vinteniers shall not exercise for the future their office longer than three years, unless they shall be elected afresh, and that they consent to it; and that after the said offices shall have been exercised for that period, the King's Officer shall apply to the Court, who shall order a new election to the said offices of Constable and Centenier, according to usage; and that the Vinteniers shall not be exempted, after having served in that quality, from serving as Constable's Officers if they are nominated to it. "

By these and several other acts of this nature, it is evident the States are competent to judge of the qualification and attendance of their own members; and until the year 1708 (when the encroachment of the Court on the prerogative of the States became frequent) the Constables were sworn before the States of the island, and not before the Royal Court as they are at present, which appears by the acts of the States of the 6th. of september 1606, 22d. of july 1673, 13th. of august 1691, 20th. of march 1693, 1st. of november 1697, 24th. of november 1706, and 4th. of march 1707.

From this charge and imputation, it is therefore humbly hoped, the conduct of the States is sufficiently justified; and with regard to their manner of understanding these two articles of the law (perhaps irreconcilable in themselves) the States have to represent to your Lordships, that they have given the law that construction which appears to them the most reasonable, the clearest and the least liable to abuse and inconvenience to the publick; and they have therein recurred and attended to ancient usage and precedents, by which they are supported in the fullest manner; and that they find the new law, however inexplicit, refers to

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that ancient usage; and that it is further expressly declared in the last article of the code of laws : " It is understood not to derogate in any manner from the privileges, rights, immunities, franchises or liberties granted to this island by his Majesty and his Predecessors, nor alter or invalidate the ordinances or laws established by Royal authority and not recalled, although such privileges, rights, immunities, franchises, liberties, or laws, be not inserted or brought into this code. "

If therefore the States have held by Royal grant, and have exercised from time immemorial ( as it is hereby clearly proved ) the privilege of determining on the qualifications of their own members; such a privilege, as well as all other rights, remain and are confirmed by this clause in their full force and virtue.

It is undoubted, that the article of the law, which limits the duration of the Constables' office, took its origin in the act of the States of the 31st. of July 1770 above-mentioned, which, in order to reform the abuse of the Constables' remaining in office often for life, fixed its duration to a given time, without intending to deprive the parishes of their true representatives, or to suspend for a moment the police of the island, without which, the good order of society could no longer subsist. For instance; in the year 1770 the office of the Constable and of the two Centeniers of the parish of S. John, and that of the Constable and of the two Centeniers of S. Mary's expired the same day, as appears by act of the Court of the 4th. of August 1770 which orders a new election in both parishes. In the interim and until new officers were sworn, the question is, by whom were these two parishes to be represented in the publick assembly of the States, and under whose direction was the peace and good order to be observed in those parishes, if those officers had been considered as discharged at the end of three years.

But admitting that the States had fallen into an error on this point, which can by no means be granted, can it be supposed that the Royal Court would have led the States into an error and then turned out their accusers? that the Royal Court should have laid down a system for a number of years, and only abandon that system to criminate the followers of it? It cannot be credited. The fact is this : the Royal Court so well knew and understood the spirit of the law at the time it was established, and for many years after, that every act, issued from the Royal Court for a new election of Constable from the year 1770 to the month of October 1779 without a single variation, is not only agreeably to this principle, but expressive of the rule which the States have observed in this respect, as may be seen by the following acts, viz. of the 12th. of February, and 31st. of July 1774, of the 23d. of September 1775, of the 13th. of June, 20th. and 21st. of September 1776, of the 15th. of March 1777, of the 2d. of May and 17th. October 1778, and of the 20th. of February 1779.

Each of these acts contains the following words. " It appearing that...  
 " Constable of the parish of..... has exercised the said office three years  
 " conformably to the ordinances, it is ordered, at the instance of the  
 " King's Procureur general, that there shall be, on saturday next, an elec-  
 " tion in the said parish to replace the said office; to which effect.....  
 " Jurat is authorized to collect the votes and suffrages of the people in  
 " the said parish, and to signify to the person who shall be elected to  
 " appear before justice saturday next, in order to be sworn into the said  
 " office; after which the said late Constable shall remain discharged from it. "

It is not immaterial here to observe, that the first time the Royal Court changed the wording of their acts, was immediately after their arbitrary rejection of the Constable of S. Brelade's and their appointment of a Centenier in the States; the consistency of which was not easy to reconcile with the acts above-mentioned, until the last clause was removed.

As a further explanation of the usage in this respect, the following precedents will shew that the States have observed the same rule under the like circumstances.

On the 23d. of october 1778, M. Charles Maret, Constable of the parish of Trinity, was admitted to the States as representative of the said parish, notwithstanding the pretended discharge from the Royal Court was given on the 17th. of the said month of october, by which an election was ordered in the said parish. The new Constable was not sworn to the office until the 12th. of november following.

On the 20th. of october 1779, M. John Filleul, Constable of the parish of S. Clement, attended the States as representative of the said parish notwithstanding the same pretended discharge from the Royal Court, on the 16th. of the same month of october. The new elected Constable took the oath of office on the 30th.

On the 20th. october 1779, before-mentioned, M. Patriarche, Constable of S. Helier's sat in the States as representative of the said parish, notwithstanding the election for a Constable in the said parish had been ordered by the Court the day before.

And on the 25th. of the said month of october, the same Constable of S. Clement's and S. Helier's were again admitted in the States as representatives of their respective parishes, although the three years of their office had been expired some time; their successors not being sworn till the 30th. of october and 15th. of november following; and all this without the least opposition or hint of impropriety from any one member of the States.

One single instance occurs wherein a Centenier was admitted in the States in a situation similar to the present, and that was on the 3d. of november 1779, when M. John Le Geyt, Centenier of the parish of S.

Helier was summoned to attend; and that the case was unusual was clearly proved by the States' making a special act to admit him. The fact is this: General Conway had on a former day laid before the States a motion for the establishment of duties on rum and gin. The 3d. of november 1779 was the day appointed to determine on that important subject; and General Conway's departure from Jersey was fixt for the following day. M. William Patriarche, the old Constable, had been warned as usual to attend the States by order of the Lieutenant Bailly, but M. Patriarche refusing to attend for some particular reasons, and the officer reporting the same, the Lieutenant Bailly ordered the Centenier to be summoned. The Centenier appeared accordingly, and the States, in order to determine on the proposition, in General Conway's presence, admitted the Centenier as is above-mentioned,

In short, what makes the conduct of the States beyond doubt legal and irreprehensible on this point is, that a similar instance has already appeared before his Majesty in Council, when the States, by their act of the 13th. of march 1779, declared that the Constable of the parish of S. Brelade ought to have appeared in the States, and that the Centenier was not duly qualified to represent the said parish. The Court strongly opposed the measure, and when the matter was carried before his Majesty in Council, the Royal Court, who was respondent in this suit, concluded their answer by this prayer;

» That it will appear to his Majesty and to your Lordships, expedient  
 » to direct, that the act passed in the States on the 13th. of march 1779,  
 » by the Petitioners, be null and void; and that from henceforth, the  
 » Receivers of his Majesty's revenues in this island be disqualified from  
 » holding any civil employment with the office of Receiver, and strictly  
 » enjoined not to interfere nor take part in any election to any civil  
 » office whatsoever in the island, or other matter regarding the civil go-  
 » vernement. »

On this occasion the States and the Royal Court were heard by Council before the Lords of the Committee; and the report which their Lordships were pleased to make, instead of annulling the said act of the States of the 13th. of march 1779, and censuring the States for rejecting the Centenier and calling in the Constable of S. Brelade's; instead of disqualifying the King's Receiver from holding any civil office, and laying him under the restraint so ardently prayed for, was: » that, it may be  
 » advisable for your Majesty to declare, that the office of Constable and  
 » representative of a parish is not incompatible with the office of Re-  
 » ceiver of his Majesty's revenues in the island of Jersey. » — The report was confirmed by his Majesty's most gracious order in Council, bearing date the 18th. of may 1781.

Under the sanction therefore of this his Majesty's order in Council, and



the authority of an ancient and immemorial usage, the States submit their proceeding in this matter to your Lordships, confident of having adopted that system which is least liable to abuse and inconveniency, and best suited to the principles of the constitution of the island.

*Answer to the 6th. and last specific article, complaining of efforts made for changing the method of holding and convening the States.*

In the month of august 1782, a motion was made by a member, proposing some rules for the meetings and adjournments of the States. This motion was read, after which it was lodged au greffe, but it had been neither debated, put to the votes, or passed into an act. If these be the efforts which the Petitioners venture to impute to the States, the case of the States will be arduous indeed; for it will not be in their power to justify opinions which they have not given, nor account for what does not exist; and if the Petitioners mean any other efforts, they have not come to the knowledge of the States; but it is extraordinary that the Petitioners should think it necessary to trouble his Majesty with this imaginary transgression, and leave unimpeached several acts of the States, affecting the method of holding and convening the States, particularly that of the 19th. of september 1782 (agreed to indeed by the major part of the Petitioners themselves) and now actually in force in the island. The act is this:

» The States taking into their consideration the irregularities which of late have happened in the manner of convening their assembly, and  
 » foreseeing the ill consequences that might arise therefrom to the publick in general and to the members themselves, have determined to  
 » order, that for the future, as soon as the order for calling the States is signified to the Denonciator, he shall deliver or cause to be delivered at the house of every member or to such members in person, a  
 » ticket mentioning the day of the month and hour of their meeting. »

By this act, the States pass a censure, and with great reason, on the irregularities committed in the method of calling the States together, and they reform the abuse; but it is not the act complained of; for the Petitioners in this case would complain of what they have voted for. This act no doubt alters the mode of convening the States. Yet it is acknowledged by the Petitioners, as well as by the States in general, to be of great utility, and it is strictly observed accordingly.

Thus far the States consider the Petition to require their specific answers. The subsequent articles contain no direct or explicit charge; but they bear the blackest die of malicious insinuations. In general terms the States are accused » of acting with a spirit of party, faction and resentment; of masking the truth; of endeavouring to spread abroad and  
 » foment the same spirit of faction, and of favouring particular views of power and interest in the discharge of their publick duty. » The body

of the Clergy in general terms also are loaded with the most opprobrious accusations » of throwing off the cloak of peace, of abandoning their » flocks, and of degrading the sanctity of their character by an unwarrantable conduct. » To these disgraceful terms of unmerited reproach, the States cannot turn, without the utmost concern. Conscious of having discharged their duty with zeal, attention and perseverance, of having employed their time, their efforts and abilities to the service of the publick, without the least prospect of emolument, and of having ever had in view the peace, welfare and happiness of their follow subjects, acquitting themselves also in the different situations of life they are placed, agreeably to the laws and order of society : it is more than usually severe to be treated one and all, indiscriminately, with so much asperity. And when it is considered that those loose and undignified aspersions flow from the hearts of men who hold the sacred trust of administering justice with the purest and strictest impartiality; who carry in one hand the branch of peace and harmony, and in the other the instrument of calumny, the charge becomes serious, and the innocent must look for protection. In the great wisdom and justice of their most gracious Sovereign therefore, the States firmly and confidently rely; and to your Lordships' great justice and impartiality they submit every part of their conduct and the propriety of such vague imputations, against which no guard is provided, no means of defence given; assuring your Lordships at the same time, in the most solemn manner, that neither these nor any other reproaches, however severe and undeserved, shall be able to create in the States that spirit of faction or resentment of which they stand accused, nor make them depart from that strict and upright line of duty for which they are answerable to their Country, to their King and to God. That on the contrary, the States will ever be ready (as their predecessors have been before them) to use every exertion and to sacrifice every interest to the establishment and preservation of good order, to the due observance of the laws, and the maintaining and enforcing the just and legal authority of the jurisdiction in the island of Jersey.

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*The States' Answer to the Petition of the 69 inhabitants.*

*To the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey.*

MY LORDS,



**I**N obedience to an order from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the

20th. day of may 1783, directing the States of the island of Jersey to return their answer in writing to a petition of several inhabitants; and also in obedience to his Majesty's most gracious order in Council, bearing date the 23d. of april 1784, the States having duly considered the subject of the said petition, humbly beg leave to return the following answer to your Lordships.

The matter of complaint rests wholly on this point : that the States, by their act of the 9th. of october 1782, ordered the sum of thirty guineas to be raised on the publick to defray the expence of laying before his Majesty in Council the answer which the States were directed, by an order from the right honourable the Lords of the Committee of Council, to return to the petition of the Lieutenant Bailly and several Jurats of the Royal Court.

As this same subject of complaint is contained in a petition and representation of the Lieutenant Bailly and several Jurats of the Royal Court, the answer to which is now transmitted to your Lordships, in obedience to the orders before-mentioned; and as this point is therein specifically answered by the States in the fullest and most ample manner, the States conceive it will not be necessary to trouble your Lordships with a recapitulation of the number of precedents, acts of States, orders of Council and other evidences which are there quoted at length. The States therefore humbly presume to refer your Lordships to their answer to the second article of complaint contained in the said petition and representation of the Lieutenant Bailly and Jurats of the Royal Court, by which the States humbly hope it is proved, to the satisfaction of your Lordships, that the States of Jersey, by their constitution, by Royal authorities and by an ancient and established usage, have an unquestionable right of raising money upon the inhabitants for occasional purposes, whenever it is found expedient; that the States have never in any single instance borne, as individuals, expences incurred by them as a corporate body, but that from time immemorial the publick of the island, or some publick fund or other, have been charged with the costs of pursuing or defending what the States have considered as publick advantages.

The States cannot avoid however taking notice of the opprobrious language in which they are accused of subjecting the property of the inhabitants to their caprice. If an act of the States, thus passed in consequence of a power which the States have uninterruptedly exercised, and the effects of which must necessarily affect them materially as men of the first property in the island, is loaded with so harsh an appellation, it cannot but be concluded that this petition is dictated by the animosity of party, and that it is the suggestion of persons who are most of them connected with the Magistrates of the Royal Court.

That disputes have arisen and unfortunately still subsist in the States,

the Petitioners rightly observe; but in what these disputes originate, whether in the claim of hitherto unheard-of powers and distinctions by the Lieutenant Bailly and some of the Jurats of the Royal Court, in a total disregard of those dearest rights, without the enjoyment of which the existence of the States as a legislative body would be of little or no use to this country, or, as it has been falsely insinuated, in the violence of party-zeal and resentment, his Majesty will, in his great wisdom, determine on the various facts and evidence before your Lordships.

With respect to the charge of informality urged against the States, for not having, as it is pretended, given the subject in question the time for consideration required by his Majesty's order in Council of the 28th. of march 1771, the Petitioners must have no doubt been extremely ill informed, or they must be guided in this accusation by motives little reconcilable to candour or justice.

The petition of the Lieutenant Bailly and Jurats before-mentioned, with the order of the Lords of the Committee of Council thereupon, were laid before the States on the 31st. of august 1782, and duly lodged au greffe for the consideration of every member of the States; the matter was taken up by the States on the 19th. of september following; then, for further and more mature deliberation, it was referred to a Committee, the report of which was brought before the States on the 19th. of october 1782, when they finally determined on the subject according to the constant and invariable forms and usage in similar cases. There was no sign of precipitancy; the utmost coolness and deliberation marked every step of the business, and a more considerable time was given than that which is prescribed by his Majesty's order in Council of the 28th. of march 1771. If it be meant by the 69 Petitioners, that the report of the Committee was not lodged au greffe for fourteen days, a continued series of precedents, from the date of his Majesty's order in Council of 1771 before-mentioned to this present time, will shew that the States have always proceeded to the determination of every proposition, immediately on the report of the Committee, and no single instance to the contrary can possibly be adduced.

The following are the dates of the reports of Committees approved of and proceeded upon by the States immediately on the day they were brought up, authenticated copies of which are herewith transmitted for your Lordships' inspection, viz : june the 1st. and 29th. 1771;— 13th. of february, 18th. of july and 1st. of august 1772;— 6th. of october 1773;— 30th. of july 1774;— 18th. and 26th. of september and 11th. of october 1775;— 26th. of september, 11th. of october and 3d. of may 1776;— 22d. of november 1777;— 2d. of may and 23d. of october 1778;— 6th. and 27th. of april 1779;— 18th. of march, 21st. of april, 22d. and 27th. of july 1780;— 21st. of april 1781;— 3d. april and 9th. of october 1782;— 31st. of july 1783, and the 2d. of june 1784.

It is admitted that one of the Constables (the Constable of S. Laurens') desired to consult his constituents; but this wish was expressed only on the day the report of the Committee was brought up, without any intimation on the former days, when the business was before the States.

It is not therefore unfair to conclude, that this was done only with a view of retarding the matter, the said Constable having had ample time to consult them, if he had thought proper, in the interval between the day on which the proposition was first laid before the States, and that on which they determined upon it. With respect to the duty said to be incumbent on the Constables to consult their parishes, we beg leave simply to refer your Lordships to his Majesty's most gracious order in Council of the 28th. of march 1771 before-mentioned, by which it is expressly declared, that the Constables may consult their parishes, if they judge it necessary. It is also here observed, that the act was passed notwithstanding the opposition of some of the members, as if it were surprising that the greater number of an assembly should carry a motion against a lesser. A contrary event might justly alarm every well wisher to his country.

With a view no doubt of degrading the States in the eyes of his Majesty, and of casting an odium on the due exercise of the authority vested in them of levying money for publick purposes, the States are next called a subordinate assembly. The legal knowledge of the Petitioners cannot extend far when they venture to stile subordinate an assembly in which the whole legislative power of this country, under his Majesty in Council, resides. The fears the Petitioners express, and the danger they seem to apprehend, of the invasion of their property from views of interest, and ambition of usurpation and abuse of power, are the means by which sixty nine persons vainly, it is presumed, attempt to gain their favourite end of annihilating the just authority of the States, an authority which many former and ancient precedents prove to have been exerted against the incroachments of designing men, for the welfare and relief of the inhabitants of this country, and in such a manner as has frequently met with the approbation of their Royal Masters. And that the present States have been as religiously attentive to the support of the people's rights, and have conducted themselves, in the late unfortunate disputes, in a manner satisfactory to the publick at large, the Petition of one thousand and thirty six of the most respectable and independent men of this island, by their situation and property, bears ample testimony. Such a considerable part of the community, greatly exceeding the few whose connexions with the Magistrates have led them into the fatal error of accusing their protectors, rather than the invaders of their property, must convince his Majesty of the disinterested views of the States, and that the right they have exercised on this occasion is not complained of by those whom it most concerns, Were the States actuated by moti-

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ves of interest, interest would hardly prompt them to lay burdens on themselves; and as to the insinuation of ambitious projects, little credit will be paid to them if it be considered in what moderate and forbearing manner the States have hitherto borne, for the sake of forwarding public business, the invectives which the minority of their assembly has often illiberally bestowed upon them, without the least regard to decency, or the respect due to the first corporate body in the island.

The only argument alledged by the Petitioners in support of their opinion on the insufficiency of the power of the States to raise money, is founded on an order of his Majesty in Council of the 20th. of april 1774, by which his Majesty thought proper to annul an impost established by an act of the States on certain commodities imported in the island, thereby confirming the orders and regulations of King Henry VII. This argument is by no means applicable to the present case, nor can any comparison be made between the two instances. The act of the States, so wisely abrogated by his Majesty, imposed a duty on rum and geneva, which duty was intended, without the sanction of his Majesty, to operate on the property of the inhabitants for ever.

This extent of power, to which your Majesty so properly deemed the States incompetent, is widely dissimilar from the right claimed by the States from immemorial custom and usage, of levying occasional sums of money for immediate and temporary purposes, and as the good of the island may require, such contributions being the exigencies of the moment and ceasing with the object for which they are raised, and without which this country might be exposed to various dangers, losses and calamities.

To remedy evils which exist only in the imagination of 69 inhabitants, a prayer is preferred to his Majesty, big with the most fatal consequences and subversive of the very foundation of the legislative assembly.

One of the objects of the prayer, is, that the States may not in future order any sum or sums of money to be raised on the inhabitants without his Majesty's approbation being first obtained, except for the immediate defence of the island and the usual and ordinary exigencies which the maintenance of the poor, and the particular interests of the island may render absolutely necessary. This part of the prayer is so general and equivocal that it would seem as if the Petitioners combated their own principles and intreated his Majesty to admit a right which they will not allow in the body of their Petition. The Petitioners wish the States to have the liberty of raising money on the inhabitants for the particular interest of the inhabitants; and surely the particular interest of the island was never more immediately concerned than when the States, by their act complained of, stood forth in the support of the freedom of elections, the most precious privilege of the people. But the States do not ap-

prehend that their gracious Sovereign will, upon the Petition of 69 persons, deprive them of a right acknowledged heretofore by Royal authority, and enjoyed by their predecessors uninterruptedly from time immemorial.

Another object of the prayer is, that in the cases above-mentioned, no act shall have the force of law without the concurrence of the majority of the three Estates respectively; it is difficult to conjecture upon what principles of policy or reason, the Petitioners have ventured to make this extraordinary prayer. No good purpose could it possibly answer, and to many pernicious and fatal consequences would it certainly lead, should it be in the power of the majority of one third to obstruct, and indeed intirely stop the proceedings of the whole. A door would necessarily be opened to numberless dissensions, arising from the difficulties of passing into a law what might be of infinite importance to the publick, yet contrary to the views or interest of a few members. And when it is considered, that the Jurats of the Royal Court, who are vested with the judicial power, form one third of the legislative assembly, it is not uncandid to suggest that a power to stop the functions of the legislature, would throw such an additional weight into the scale of their already extensive authority, as would be truly alarming and dangerous to the liberties of this island.

The last part of the prayer tends to oblige the Constables to consult their constituents on the same subjects. The Petitioners here, in their zeal to contract the authority of the States, seem to lose sight of their own weight and interest. For it is surely diminishing the consequence of the people in the general assembly of the States, to check or to lessen that of their Representatives. Obligated to consult their constituents, the Constables would find themselves reduced to a state inferior to that of the two other branches of the legislature, whose opinions are not liable to the controul of the people. Instead of following the dictates of their own judgments in matters brought before the States, and holding that dignity which as delegates of the people they ought to possess, they would find themselves converted into mere vehicles of the sentiments of their respective parishes. If any one body of the States were entitled to any preeminence of authority over the others, it would surely seem more consonant to sound policy, and the wishes of the people, that the Constables should acquire that preeminence, whose office is confined to the period of three years, and whose re-election must depend on the confidence they may have gained from their constituents on their former publick conduct. On the other hand, no utility could result from the Constables' report to the States of the wishes of their parishes, as it would still be in the power of the other two bodies to reject those wishes; and it must not be disguised that, should the opinion of two bodies of the States differ from the sense of the people, thus communicated by the Constables,

mutual distrust and jealousies would be the natural and unavoidable consequences.

Upon the whole, the States once more presume to recur to the sentiments entertained of their conduct, and to the just apprehensions excited in the minds of 1036 of the most respectable inhabitants of this country, by the innovations attempted to be introduced by 69 misguided persons. The States finally rely, with full confidence, on his Majesty's great wisdom and justice, humbly hoping that his Majesty will be graciously pleased to continue them in the possession of those rights and prerogatives, which their predecessors have constantly enjoyed under the auspices of their gracious Sovereign,

*Jersey, 15th. July 1784.*

(Signed)

Edward Le Maistre, : }  
Nicholas Fiott, . . . } jurats.  
Philip Le Hardy, . . . }

Fr. Le Breton, dean of Jersey and rector of S. Saviour's,  
Richard Le Feuvre, rector of the parish of St. Peter,  
J. Du Parcq, rector of St. Ouen's,  
Francis Valpy, rector of St. Mary's,  
A. Biffon, rector of St. Laurens's.  
G. Bertram, rector of St. Clement's.  
Fr. Le Couteur, rector of St. Martin's,  
Th. Sivret, rector of St. John's.  
Ed. Dupré, rector of S. Helier's.  
John Dumaresq, constable of S. Peter's,  
J. De Carteret, constable of S. Ouen's.  
James Papon, constable of St. Brelade's,  
Ch. Marinel, constable of S. Helier's.  
Th. Labey, constable of Grouville.  
John Du Pré, constable of St. Mary's,  
John Arthur, constable of S. John's.



*Protest against M. Th. Papon the Procureur's being considered as impartial in this business, being in fact a party.*

## I S L A N D O F J E R S E Y.

**W**E, the undersigned members, constituting a majority of a full assembly of the States of Jersey, having been informed that Thomas Papon



esquire, King's Procureur, is called over to England by the desire of My Lord President of his Majesty's Council, to be present on the 30th. of this instant, when the affairs of the island are to be taken into consideration by the right honourable the Lords of the Committee of Council, owing to the intricacy of the said affairs, do solemnly certify, that the said Th. Pipon esquire, has taken an active and decided part in the late unfortunate disputes which have happened in the States; that he has not only signed the Petition of 69 inhabitants inveighing with great asperity against the proceedings of the States, and containing the same subject of accusation as that signed by the Lieutenant Bailly and several of the Jurats against the said States (which two Petitions and answers to them are the subjects to be taken into consideration,) but that he has also on several occasions, without any regard to the dignity of that assembly in which the law allows him no vote given advice to the Lieutenant Bailly in the States not to put to the votes motions, which were regularly brought before them, particularly on the 20th. of May 1784, when a motion was proposed humbly to thank his Majesty for his most gracious order of the 23d. of April 1784, by which the States were restored to the due exercise of their functions. He, the said Th. Pipon esquire, King's Procureur, declare openly in the said assembly : " if I was the Lieutenant Bailly, I solemnly declared, I would not put the motion to the votes. " That the said Tho. Pipon esquire, is moreover nephew to Ch. Lempriere esquire, late Lieutenant Bailly, during whose administration, and in whose proceedings these disputes have originated. That he is also first cousin to Will. Ch. Lempriere esquire, the present Lieutenant Bailly, and son to Joshua Pipon esquire, also Lieutenant Bailly, and Jurat of the Royal Court, and one of the complainants against the States signed in the above-mentioned Petition.

That for the reasons above-mentioned, the undersigned members of the States do solemnly declare and protest, that they consider the said Tho. Pipon esquire, as by no means an impartial person in the present contest; but that on the contrary it appears to them, that he is one of the principal promoters of the two Petitions before-mentioned, and adviser of the measures taken against the States.

We therefore humbly hope, that a person disqualified by his connections and conduct, and by being one of the Petitioners, may not be considered at their Lordships' Board as disinterested and unconcerned in the matters which are to be taken into consideration. And as the proceedings of the States, as a corporate body, are now at a stand owing, on one day, to the sudden departure of six of the Jurats from that assembly in the midst of public business, and on two subsequent occasions, viz, the 30th. of June and 13th. of July, having refused their attendance, and the Lieutenant Bailly declining to proceed in their absence and quitting the assembly on the last day. We do therefore, considering the pre-

sent critical and confused state of affairs in this island, request the Lieutenant Governor to transmit this our declaration, to be laid before his Majesty in Council, together with the answers which the necessity of the times oblige us to trouble him with, having at present no other means left to approach our most gracious Sovereign.

Witness our hands. Jersey the 17th. day of July 1784.

Ed. Le Maistre, . } Jurats.  
Nic. Fiott, . . . }

Francis Le Breton, dean of Jersey, and rector of St. Saviour's.

Richard Le Feuvre, rector of S. Peter's.

J. Du Parcq, rector of S. Ouen's.

Francis Valpy, rector of S. Mary's.

A. Biffon, rector of S. Laurens's.

Fr. Le Couteur, rector of St. Martin's.

G. Bertram, rector of S. Clements'.

Th. Sivret, rector of S. John's.

Ed. Dupré, rector of S. Helier's.

Ch. Marinel, constable of St. Helier's.

John Du Pré, constable of S. Mary's.

Th. Labey, constable of Grouville.

John Dumaresq, constable of St. Peter's.

James Pipon, constable of St. Brelade's.

John Arthur, centenier of S. John's.

And I the undersigned, Ph. Le Hardy, one of the Jurats of the Royal Court, having but lately been elected to that office, and having only attended the two last meetings of the States (from which Th. Pipon esquire, King's Procurateur, absented himself) have not been witness to the decided part which the said Th. Pipon esquire has taken in that assembly in favour of the Lieutenant Bailly and some of the Jurats; but I do certify that the matters herein contained are of publick notoriety, and that the said Thomas Pipon esquire is publickly known to have taken an active and decided part against the States in the present contest. Witness my hand. Jersey the 17th. July 1784.

Ph. Le Hardy, jurat.

I James Hemery, notary publick, by lawful authority, duly admitted and sworn, dwelling in the island of Jersey, do certify, that the declarations herein contained were signed in my presence by the different members of the States of this island this 17th. day of July 1784, which I attest:

In præmissorum (L.S.) fidei,

James Hemery, Notary publick.

AT THE COURT AT S. JAMES'S, THE 6th. AUGUST 1784.

P R E S E N T,

THE KING'S MOST EXCELLENT MAJESTY,  
L O R D P R E S I D E N T.

DUKE OF CHANDOS,      LORD SYDNEY,  
MARQUIS OF CARMARTHEN. WILLIAM PITT esq<sup>r</sup>.  
VISCOUNT HOWE,      HENRY DUNDAS esq<sup>r</sup>:

**W**HEREAS there was this day read at the board, a report from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 31st. of last month in the words following, viz.

The States of the island of Jersey having been convened in obedience to your Majesty's order in Council bearing date the 23d. of april last, and answers having been returned to the matters of complaint contained in the Petition from certain of the inhabitants, and in the representation from the Lieutenant Bailly and Jurats of the Royal Court, against certain proceedings of a majority of the said States; the Lords of the Committee have taken the said Petition and Representation, together with the said answers thereto, into their consideration; as likewise a Petition signed by a considerable number of the inhabitants (amounting to upwards of 1000 names) in support of the proceedings of the said majority of the States; and also a Petition from Edward Le Maistre and others (whose names are thereunto subscribed) being the major part of the members of the assembly of the States, complaining of the conduct of the Lieutenant Bailly of the said island, and the answer of the said Lieutenant Bailly thereto (which two Petitions last mentioned stand referred to the Committee by your Majesty's orders in Council bearing date respectively, the 28th. of november and the 16th. of january last) and their Lordships having been attended by counsel on both sides, and having examined witnesses touching the usual mode of proceeding in the assembly of the States with respect to the manner of collecting the votes, and whether, according to the laws and usage of the island, an act of the States must be assented to by a majority of each of the three constituent orders of the States respectively. Their Lordships reserving for the present their opinion upon other matters contained in the said Petitions, do agree to report to your Majesty,

*First.* That one of the charges set forth in the complaints against the

States is, that on the 9th. of october 1782, a proposition was moved and at the same time enacted, that the sum of thirty guineas should directly be raised upon the inhabitants for the purposes mentioned in the said act. Upon this head the Committee is of opinion, that the instrument purporting to be an act for raising the above sum of money upon the inhabitants, not having been passed in a case of emergency, ought to have been lodged au greffe for fourteen days, conformably to your Majesty's order in Council bearing date the 28th. of march 1771; and the terms of the said order not having been complied with in the above respect, the said instrument or act is null and void, and that it may be adviseable for your Majesty to declare the same to be null and void accordingly, and to order that in case the same shall have been registered in the records of the said island, the Royal Court, having first communicated to the States such your Majesty's order, should cause the instrument or act to be erased from the records.

Another article of charge against the States is : that an assembly of the States, being appointed to be held on the 30th. of october 1782 at a time when there subsisted before the Royal Court a contested election for the place of Constable of the parish of S. Martin, and the eldest Centenier of the said parish having been summoned to assist in the States, agreeable to law and usage, the States took upon themselves to decide that the Centenier was not qualified to sit in the assembly of the States, and that the late Constable for the parish should attend, notwithstanding his formal and unequivocal discharge by act of the Royal Court. Upon this head the Committee beg leave to observe to your Majesty, that an appeal having been made to your Majesty in Council from the judgment of the Royal Court, in the matter of the said contested election, and the opinion of the Committee upon that appeal having been submitted to your Majesty, that the appellant ought to be declared duly elected, and be forthwith sworn in as Constable of the said parish of S. Martin; it becomes unnecessary to enter into that article of charge; but the Committee is of opinion, that to prevent any doubts arising in future, in case of a contested election for the office of Constable of a parish, it may be adviseable for your Majesty to signify your pleasure, that notwithstanding the discharge of a Constable from his office, at the expiration of three years (the term for which he holds his office) and a new election ordered, the former Constable shall continue to sit and vote in the assembly of the States [ if the States shall be convened during the interval ] until the new Constable shall be sworn into his office, such new Constable to be sworn in as soon as possible after he shall have been duly elected.

And for preventing any future difference of opinion, as to the number of the members belonging to each order of the States, necessary to be present in the assembly of the States, in order to form such assembly  
and

and enable them to proceed to business as States, and to pass acts, the Committee is of opinion, that it may be adviseable for your Majesty to declare, that the assembly of the States is to consist of at least a majority of each of the three orders composing the said States respectively, and that in the majority of the assembly at large, so constituted, the power of doing all business as States, and of passing provisional laws and ordinances resides.

And lastly, this Committee is of opinion, that so much of the said Petitions, on either side, as contain accusations respecting the manner in which the Lieutenant Bailly and the several members of the States have respectively conducted themselves, touching the points in difference between them, should be dismissed.

His Majesty, taking the said report into consideration, and approving thereof, was pleased to declare, that the said instrument purporting to be an act for raising the sum of money therein mentioned, having been passed contrary to the tenor of his Majesty's order in Council bearing date the 28th. of march 1771, is null and void, and to order the same to be erased from the records of the said island, in case the said instrument or act should have been registered therein.

And his Majesty is hereby further pleased to order, that notwithstanding the discharge of a Constable from his office at the expiration of three years [the term for which he holds his office] and a new election ordered, the former Constable shall continue to sit and vote in the assembly of the States [if the States shall be convened during the interval] until the new Constable shall have been sworn into his office, as soon as possible, after he shall have been duly elected.

And his Majesty is, hereby, further pleased to declare, that the assembly of the Estates is to consist of at least a majority of each of the three orders composing the Estates respectively, and that in the majority of the assembly at large, so constituted, the power of doing all business as States and of passing provisional laws and ordinances, doth reside.

And his Majesty is pleased to order, that so much of the Petitions on either side, as contain accusations respecting the manner in which the Lieutenant Bailly and the several members of the States have respectively conducted themselves, touching the points in difference between them, be dismissed this board.

And the Governor, Lieutenant Governor or Commander in chief of the island of Jersey for the time being, the Bailly and Jurats of the Royal Court, and others, the members of the States of the said island, and all others whom it may concern, are to take notice of his Majesty's pleasure hereby signified, and govern themselves accordingly.

*W. Fawkner:*

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AT THE COURT AT S. JAMES'S, THE 7th. OF MARCH 1785.

P R E S E N T,

T H E K I N G ' S M O S T E X C E L L E N T M A J E S T Y,

L O R D P R E S I D E N T,

V I S C O U N T H O W E,

L O R D S Y D N E Y,

V I S C O U N T B A R R I N G T O N,

M. P I T T,

L O R D A M H E R S T,

S I R G E O R G E Y O N G E.

**W** H E R E A S there was this day read at the board, a Representation from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 3d. of this instant, in the words following, viz.

Your Majesty having been pleased, by your order in Council bearing date the 6th. of august last, to approve of a report from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, respecting certain points in dispute in the island of Jersey [which stood referred to the Committee by fundry orders of your Majesty in Council] and to signify your pleasure upon some of the said points, and to order the Governor, Lieutenant Governor or Commander in chief for the time being, the Bailly and Jurats of the Royal Court and others, the members of the States of the said island, and all others whom it might concern to take notice and govern themselves accordingly. Your Majesty's Lieutenant Governor did, in pursuance of your Majesty's above-recited order, call together the States of the island of Jersey on the 27th. of the said month of august, for the purpose of promulging such your Majesty's order in Council; but it appears by a letter from the said Lieutenant Governor, bearing date the 11th. september last, that owing to the absence of six of the Jurats of the Royal Court, the members of the States present, on the said 27th. of august, were not competent to act as States, and register your Majesty's said recited order.

That the said Lieutenant Governor did thereupon call another meeting of the States of the island of Jersey on the 7th. of september then following; but the same members still absenting themselves, your Majesty's order still remained unpromulged.

A Petition of the major part of the members of a full assembly of the States of the island of Jersey (whose names are thereunto subscribed), has likewise been presented to the Committee, to the same effect (among

other things) as the above information, received from your Majesty's Lieutenant Governor, viz, that on account of the non-attendance of Joshua Pipon, Francis Marett, Charles Payn, Elias Pipon, Philip Robin and John Poingdestre esquires, Jurats of the Royal Court, from both the above meetings of the States, your Majesty's said order in Council could not be registered.

» And it appears by the above Petition, as well as from other papers before the Committee, that the cause of the non-attendance of the said Jurats in the assembly of the States, arises from an act of the States passed on the 16th. of June 1784, purporting that the meeting of the States should be held with open doors, against which act, as being unconstitutional, seven of the Jurats of the Royal Court, viz, the six Jurats whose names are herein before-mentioned and Philip de Carteret esquire, have made a Representation to your Majesty in Council which, together with a Petition signed by a great number of the inhabitants of Jersey, praying on the other hand your Majesty's confirmation of the said act, stands referred to the Committee. But this act has not yet undergone any discussion. The Committee being humbly of opinion, that in the first place, as well to enforce due obedience to your Majesty's above-recited order in Council of the 6th. of August last, as to put an end to the delay of publick business, and obviate any detriment the island may receive by continuing any longer deprived of the meeting of the States when occasion shall require, it may be adviseable for your Majesty, peremptorily to order, that an assembly of the States of the said island be immediately convened, and that the Lieutenant Governor should give notice to the Jurats above-named not to fail to attend the said meeting, at their peril, in order to constitute the said assembly of the States, and to transact any business which comes properly before them, and particularly to register your Majesty's order of the 6th. of August last, and also such order as your Majesty may be pleased to make hereupon.

» And in order to take away all grounds of refusal, on the part of the said Jurats to attend the said assembly of the States, conformable to their duty, the Committee is further of opinion that your Majesty's pleasure should be signified by your order in Council, that the operation of the above-recited act of the States of the 16th. of June 1784, purporting that the meeting of the States should be held with open doors should be suspended untill your Majesty's pleasure, touching the repeal or confirmation of the same, shall be made known.»

His Majesty, taking the said representation into consideration, was pleased, with the advice of his Privy Council, to approve of what is therein proposed to be done, and to order, as it is hereby ordered that the same be duly and punctually complied with and carried into execution. And

the Governor, Lieutenant Governor or Commander in chief of the island of Jersey for the time being, the Bailly and Jurats of the Royal Court, and others, the members of the States of the said island, and all others whom it may concern are to take notice of his Majesty's pleasure hereby signified, and govern themselves accordingly.

(Signed,) *Steph. Cottrell.*



## COUNCIL CHAMBER WHITEHALL,

23<sup>d</sup>. april 1785.

SIR,

SEVERAL Petitions from the island of Jersey, stand referred by his Majesty in Council to the consideration of the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, viz, one Petition bearing date the 15<sup>th</sup>. of october 1783, signed by a very considerable number of the inhabitants, praying his Majesty to take into consideration the present unhappy and critical situation of the island, and to examine by whose fault it has happened, that the supreme assembly has been deprived of all power of acting, and a stop has been put to the whole oeconomy of the State also one other Petition, dated 22<sup>d</sup>. december 1783, subscribed by sundry persons, being the major part of the members of a full assembly of the States, complaining of sundry proceedings of the Lieutenant Bailly of the island of Jersey, and praying his Majesty to take into consideration the present unhappy and precarious state of political rule and order in the said island, and that such regulations may be made as will effectually secure the rights, prescribe the duty, and insure the peace of all ranks of people in the said island.

In order thereto, the chief points upon which the Petitioners pray that his Majesty's pleasure may be signified as follows.

1<sup>st</sup>. Touching the Lieutenant Bailly's claim to decline, in certain cases, the putting to the vote questions regularly proposed and seconded.

2<sup>d</sup>. Touching the Greffier's duty to take down any resolution of the States as agreed upon by the majority, unless the Governor shall use his negative.

3<sup>d</sup>. Touching the right of summoning the assembly of the States, and in whom the same is vested.

4<sup>th</sup>. Touching the right of adjourning the assembly of the States;



5th. To consider how far the Lieutenant Bailly can be justified in his refusal to affix the seal to the act of the States of the 11th. June 1783, appointing a deputy from the States at the publick charge.

It is their Lordships' intention likewise to consider of the regularity of the attachment laid by the Royal Court upon the publick fund of the island, by their act of the 4th. of November 1783.

The Lords of the Committee have likewise before them a Petition of several of the inhabitants of the island of Jersey, dated the 14th. of December 1782, complaining of an act passed by the majority of the Clergy and Constables on the 9th. of October 1782, ordering a certain sum of money to be raised on the inhabitants; as likewise a representation from the Lieutenant Bailly and eight of the Jurats of the Royal Court, bearing date January the 20th. 1783, complaining of sundry proceedings in the States of the island of Jersey, particularly on the 10th. of July and 9th. of October 1782, and praying that his Majesty will be pleased to enact such orders and regulations for relief in the premises as to his Royal wisdom shall seem just and equitable. To both which, as also to the Petition of complaint on the other side, answers have been put in by the parties complained of; and the matters having been heard and considered by the Lords of the Committee, and their report made to his Majesty in Council upon certain points, on the 31st. of July last, certain rules and regulations touching those points have been laid down by his Majesty's order in Council of the sixth of August following. The other matters, contained in the above Petitions and Representations, still wait the determination of his Majesty in Council; but the Lords of the Committee are not able to proceed upon the same for want of persons, properly authorized by the parties respectively, to prosecute on the one side and defend on the other, the several matters contained in the said complaints and answers. I am therefore commanded by the Lords of the Committee to require, that the parties forthwith do appoint proper agents to attend this board, with full instructions to appear for them, in order to support and answer the several charges, and to give such information to the board, as may be necessary to enable their Lordships to make their report to his Majesty for determining the said matters of complaint and claim, after they shall have been fully heard; without prejudice nevertheless to the question now depending, whether the States have a right to raise money upon the inhabitants of the island, for the purpose of paying such agent before the point in question be determined in their favour.

And I am further to desire, that when the parties shall have appointed such agents, I may have immediate notice thereof for their Lordships information, who will appoint an early day for hearing the same.

I am further to acquaint you, that their Lordships will, at the same

time take into consideration, the act passed on the 16th. of June 1784; for opening the doors of the assembly of the States, as also a Petition and Representation to his Majesty in Council of seven of the Jurats of the Royal Court against the said act, copy of which is herewith transmitted to you by their Lordships' directions, in order to be laid before the States,

I am lastly to desire, that you will be pleased to communicate in due manner, both to the Royal Court, and also to the assembly of the States of the island of Jersey, as president of the said assembly, their Lordships' pleasure hereby signified touching the several points in dispute, and the bringing the same to a speedy determination.

I beg the favour of a line acknowledging the receipt of this letter and am,

S I R,

Your most obedient humble servant,

*Will. Ch. Lempriere esquire,  
Lieutenant Bailly of Jersey.*

[Signed] *Steph. Cottrell.*



AT THE COUNCIL CHAMBER. WHITEHALL,

*the 27th. of July 1785.*

*By the right honourable the Lords of the Committee of Council for the  
affairs of Jersey and Guernsey.*

**U**PON a motion this day made to their Lordships on the Petition of Thomas Pison his Majesty's Procurator general in the island of Jersey, appointed by the Lieutenant Bailly and the Royal Court, to attend the Committee on their behalf, praying that a peremptory day might be appointed to take into consideration the several matters in dispute between the said Lieutenant Bailly and the Royal Court, and the States of the island of Jersey, which now await the determination of this Committee, and also that the said States might be peremptorily ordered to name an agent to attend the Committee on such hearing, their Lordships are thereupon pleased to order, that the said several matters be peremptorily heard at this Committee on Wednesday the fifteenth day of February next, at eleven o'clock in the forenoon, whereof all parties concerned are to take notice and come prepared to be heard thereupon by themselves or their Council learned in the law,

(Signed) *Steph. Cottrell.*

*Ph. De Carteret greffier.*

AT THE STATES OF THE ISLAND OF JERSEY,

*October the 5th. 1785.*

**I**T being settled by one of the articles of the order of his most excellent Majesty in Council of the sixth of august 1784, that notwithstanding the discharge of a Constable from his office at the end of three years, and a new election ordered by the Court, the old Constable and not the Centenier is to continue to sit and vote in the assembly of the States until the new Constable is sworn in, and that such new Constable shall be sworn as soon as possible after he shall have been duly elected, but it not being provided, neither by the said order from his Majesty nor by any of the articles of the code of laws, in what manner the parishes are to be represented in the States, in case the vacancy happens upon the death of the old Constable, and that there is a contest between candidates for the said office of Constable, or in case death happens to the old Constable during such contest; the States, in order to prevent the disputes which might arise on this subject and the inconvenience which might result from the uncertainty of this political point, and from the interruption of publick affairs, have this day resolved, that when there happens a contested election for the office of Constable upon the death of the old Constable, or when death happens to the old Constable during such contest, that Candidate for the said office of Constable who has the majority of votes, admitted by the returning officer, shall take his seat in the States until the point in contest be determined, and that conformable to the spirit of the law which does not admit the Centeniers in the States but upon the sickness or absence from the island, or such like impediment of the Constable, as also conformable to the usage observed in the House of Commons of Great Britain, where the candidate who is reported by the returning officer to have the majority of votes, takes his seat until the election in dispute be decided.

[ Signed ] *Ph. De Carteret greffier.*

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*Proposition which induced the Jurats to abandon the assembly of the States, as it will more fully appear by the subsequent representations to his Majesty.*

*Du 22 décembre 1785.*

**M.** le Lieutenant Gouverneur ayant convoqué les États pour les affaires publiques, M, Jean Arthur, de la paroisse de S. Jean, lequel fut

choisi par la pluralité des suffrages des habitans de ladite paroisse, dès le 23<sup>e</sup>. jour de mai 1784, pour être connétable, s'est présenté pour assister aux États, en vertu de l'acte du 5 octobre dernier, & M. Nicolas Baudains, un des centeniers de ladite paroisse, s'étant aussi présenté pour y agir, les États ont trouvé que ledit M. Jean Arthur ayant eu la pluralité des voix, recueillies par l'officier public, pour l'office de connétable en ladite paroisse, quoiqu'il y ait présentement une contestation dépendante à l'égard de ladite élection, doit être reçu à assister aux États, d'autant que le vieux Connétable de ladite paroisse est décédé pendant cette contestation, & cela sans préjudice au droit des parties contestantes. Les États ayant de plus décidé que le serment de connétable doit être administré audit Arthur pour le temps qu'il aura séance dans les États, & sans préjudice à ladite contestation; mais M. le Lieut. Bailli n'ayant pas jugé à propos de lui administrer serment, les États, considérant les affaires importantes que M. le Lieut. Gouverneur a mis devant eux & pour lesquelles il les a convoqués, & vu la nécessité de procéder aux comptes & autres affaires intéressantes du public, ont fait l'option d'admettre ledit Arthur dans les États, sans serment, plutôt que de négliger les susdites affaires.

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## TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

*The humble Petition of the major part of the members of the States of Jersey, hereunto subscribed,*

**SHewETH,**

**T**HAT your Majesty's Lieutenant Governor, having summoned a meeting of the States, to be held this 22<sup>d</sup>. day of december 1785, and the States, viz, nine Jurats, ten Rectors and twelve Constables or representatives of parishes, being accordingly assembled, and the usual forms of proceedings gone through, a question arose respecting the admission of the Representative for the parish of S. John, during the contest depending before the Court for the office of Constable in the said parish.

That two persons offered themselves in that capacity, the one, as having the majority of votes for the said office of Constable, and as being reported such by the returning officer, so far back as the month of may 1784, the other as one of the Centeniers of the said parish; that the point being debated and the question put, it was determined, by a majority of twenty votes against ten, that, as the old Constable of the parish of S. John was dead, the returned member was to take his seat during the said contest; it was also determined by the majority, that the  
oath

oath of Constable should be administered to him, without prejudice to the right of the candidates; and conformably to an act of the States of the 5th. of october last, copy of which is hereunto annexed.

That the Lieutenant Bailly did not think proper to administer the oath to the said returned member, nor to allow the Greffier to do the same, as the States determined.

That several of the Jurats, who voted against the admission of the said returned member, hereupon rose from their seats, and were leaving the assembly, when the Lieutenant Governor represented to them and to the States in general, the necessity of giving directions upon sundry matters respecting your Majesty's service, the care and preservation of warlike stores, and the safety of the island in general; all which he laid in writing before the States, and earnestly recommended their attention to the same, and also to waive any matter of form, rather than neglect such essential objects.

That your Petitioners felt the pressing necessity of taking measures on the points brought before the States by the Lieutenant Governor, and conscions, moreover, of the expediency of providing for sundry other matters depending long since before the States, particularly the settling and payment of publick account, and attending to the petitions of the people, consented to qualify their first resolution; and in order to proceed to business, agreed to admit the said returned member upon the oath which he had formerly taken, and upon which he had represented the said parish of S. John in the States for eighteen months past.

That, while this resolution was taking down in writing, five of the Jurats, viz, Nicholas Messervy, Charles Payn, Elias Pison, Philip Robin, and John Poingdestre esquires, left the States, without giving any reason for absenting themselves.

That the other members of the States remained assembled with the Lieutenant Governor for a considerable time, in expectation of the return of the said five Jurats; but after having waited and sent out the proper officer for them, to no purpose; and there remaining but four Jurats on the bench, the States found themselves incompetent to proceed to business, conformably to your Majesty's order in Council of the 6th. of august 1784, requiring at least a majority of each of the three orders composing the States, to enable them to act.

Your Petitioners, sensible of the prejudice which the community suffers by the frequent and repeated interruption of publick business, cannot avoid, at this time, to represent to your Majesty the several occasions upon which the said Jurats have neglected their duty to your Majesty, and to the publick, by whom they are chosen.

From the month of october 1782 to the month of may 1783, for the

space of about seven months together, a total stop was put to the publick affairs of the island, owing to the same Jurats refusing to attend the States; and the cause of their refusal (as they express themselves in their Petition to your Majesty) was the resolution of the States for admitting the old Constable of S. Martin's, instead of the Centenier, to act as representative of the said parish; a resolution which your Majesty has been graciously pleased to approve of and establish as a standing law in future, by your order of the 6th. of august 1784.

On the 27th. of august 1784, your Majesty's Lieutenant Governor, in pursuance of your Majesty's above-recited order, called together the States of the island for the purpose of registering and promulging such your Majesty's order in Council; but owing to the absence of six of the Jurats, viz, Joshua Pison, Francis Marett, Charles Payn, Elias Pison, Philip Robin, and John Poingdestre esquires, the other members of the States present, on the said 27th. of august, were not competent to act as States, and register your Majesty's said recited order.

On the 7th. of september, then following, the said Lieutenant Governor called another meeting of the States for the said purpose; but the same Jurats still absenting themselves, your Majesty's order remained unregistered, and unpromulged, and all publick business was at a stand for the space of nine months, until your Majesty was graciously pleased to enforce the attendance of the said Jurats, by your order in Council bearing date the 7th. day of march 1785, wherein the right honourable the Lords of the Committee report as their opinion to your Majesty, " that, " in the first place, as well to enforce due obedience to your Majesty's " above-recited order in Council of the 6th. of august last, as to put " an end to the delay of publick business and obviate any detriment the " island may receive by continuing any longer deprived of the meeting " of the States when occasion shall acquire, it may be adviseable for your " Majesty, peremptorily to order, that an assembly of the States of the " said island, be immediatly convened, and that the Lieutenant Gover- " nor should give notice to the Jurats above named, not to fail to at- " tend the said meeting at their peril, in order to constitute the said " assembly of the States, and to transact any business which comes pro- " perly before them; and particularly to register your Majesty's order of " 6th. of august last, and all such order as your Majesty may be pleased " to make hereupon, " which report your Majesty was pleased to approve of, " and to order the same to be duly and punctually complied with, " and carried into execution, "

After these several instances of the said Jurats' total dereliction of the publick business, and of their contumacious disposition, aggravated still in the present case, your Petitioners find themselves under the disagreeable necessity, in the duty they owe to the people of this country whom they represent, most humbly to pray that your Majesty will be

graciously pleased to order, that an election for the office of five Jurats be appointed in this island in the room of Nicholas Messervy, Charles Payn, Elias Pipon, Philip Robin, and John Poingdestre esquires, or such other releif as to your Majesty, in your great wisdom, shall seem meet.

And your Petitioners as in duty bound will ever pray, &c. &c. &c.

*Jersey, 22d. december 1785.*

Signed thus      *Fr. Le Breton, dean of Jersey and rector of S. Saviour's.*  
                          *Francis Valpy, rector of St. Mary's.*  
                          *A. Biffon, rector of St. Laurens's.*  
                          *Fr. Le Couteur, rector of S. Martin's.*  
                          *G. Bertram, rector of St. Clement's.*  
                          *Philip De La Garde, rector of St. Brelade's.*  
                          *Th. Sivret, rector of St. John's.*  
                          *Ed. Dupre, rector of S. Helier's.*  
                          *John Dumaresq, constable of S. Peter's.*  
                          *James Pipon, constable of St. Brelade's.*  
                          *Francis Ricard, constable of S. Ouen's.*  
                          *John Du Pre, constable of St. Mary's.*  
                          *Philip Collas, constable of S. Martin's.*  
                          *Fran. Amy, constable of Grouville.*  
                          *John Arthur, representative of S. John's.*  
                          *Th. Anley, centenier of S. Helier's.*

REPRESENTATION OF THE LIEUTENANT BAILLY  
AND SEVEN JURATS.

*To the right honourable the Lords of the Committee of his Majesty's most honourable privy Council for the affairs of Jersey and Guernsey.*

**T**HE, Lieutenant Bailly and the Jurats of his Majesty's Royal Court in the said island of Jersey, hereunto subscribed, beg leave humbly to represent to your Lordships.

That, in obedience to his Majesty's order in Council of the 7th. of march 1785, they resumed their functions in the assembly of the States of the said island, and have continued them since, although the majority of the said assembly have repeatedly proposed and enacted ordinances, manifestly repugnant to the constitution of the island, and in direct contempt of his Majesty's order in Council of the 6th. of august 1784, reserving those points for his Majesty's determination, and notwithstanding the directions

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given by your Lordships to bring those matters to a hearing, and the order from your Lordships which fixes a peremptory day for hearing and determining the various important constitutional points in dispute, which order was issued upon the delays, on the part of the Clergy and Constables, in obeying the first directions to appoint an Agent.

That the said majority did, by an act dated the 18th. of april 1785, order a certain sum of money to be raised upon the inhabitants, and on the 27th. day of may following, directed another sum of money to be taken upon the new impost on rum and gin, in order to defray the expences of their law suits, notwithstanding those were the points upon which the disputes subsisting had originated, and which were not finally determined by his Majesty and your Lordships; but particularly on the 5th. day of october 1785, the said majority enacted, that his Majesty's order in Council of the 6th. day of august 1784, issued upon the aforesaid differences, and reserving several points to farther consideration, was insufficient to remove every difficulty which might arise touching the office of Constable, and for remedying the pretended defects of the aforesaid order of his Majesty in Council of the 6th. of august 1784, they took upon themselves to make a further regulation thereupon.

That the said Lieutenant Bailly and Jurats, look upon the aforesaid acts of the 18th. of april and 27th. of may 1785, to be illegal, and repugnant to his Majesty's said order in Council of the 6th. of august 1784; and more particularly, consider that of the 5th. of october aforesaid as highly indecent, presumptuous and illegal attempt, in the States, to arrogate to themselves the right of amending, explaining, or extending orders issued from his Majesty and your Lordships, without first respectfully representing, as is usual and becometh; yet, unwilling to trespass upon your Lordships' precious moments, they had delayed representing this last attempt, hoping that as its effect was to reach to future events only, the occasions on which it could operate might not happen before the day arrived, which your Lordships had fixed for a full investigation of these differences, when it would be in your Lordships power, upon considering this matter, to correct such an undue exercise of authority, and prevent the evils which might flow from it; but having experienced at an assembly of the said States, convened by the Lieutenant Bailly at the requisition of the Lieutenant Governor, on the 22d. of december 1785, that the said majority, not confining this extraordinary regulation to subsequent events, insisted that it was to affect those which had preceeded it, and by that means to have a retro-active influence; the said Lieutenant Bailly and Jurats have thought it an indispensable duty in them to lay the matter before your Lordships, and the reasons which have obliged them to resist proceedings which appear to them most unwarrantable and big with the worst consequences.

Before the passing the aforeraid act of the 5th. of october 1785, the



election for a Constable of the parish of S. John was contested before the Royal Court, between the two candidates, each of which pretended to be duly elected, and reprobated the means used to favour his competitor, and notwithstanding the senior Centenier of that parish had been admitted, according to usage, to be its representative in the States, the junior Centenier who was one of the two candidates for the said office of Constable, was on the 26th. of may 1784, voted by the said majority to represent the said parish in the States to the expulsion of his senior, and has accordingly attended the assembly as Centenier, particularly since the death of the former Constable, to the aforesaid 5th. day of october inclusive, since which his office of Centenier expiring, another person has been elected to that office in his stead and sworn in as the law directs, from which time the said former Centenier had no qualification to continue in the States, the legality as to the election of Constable, in which he is one of the two candidates, remaining undetermined, notwithstanding which, the said late Centenier, without being summoned, did present himself on the said 22d. day of december, in order to be received as representative of the said parish, and the said majority, rejecting the senior Centenier of the parish who had been regularly sworn into office, and who in consequence of a summon, attended, insisted the former was to be admitted, and to be sworn in Constable in consequence of their aforesaid act of 5th. of october 1785, which they could not dissemble, had been moved and passed by them, though since the event of the said election for a Constable had happened, in view of obviating any disappointment upon the trial depending, and in order to continue this member who is implicitly attached to their interest.

The said Lieutenant Bailly and Jurats, satisfied that they could not acquiesce in these proceedings without a manifest violation of their duty as Magistrates, in whose province it lay to determine upon the person who was duly elected to the said office of Constable, and to administer to such the oath of office; and considering they themselves had suspended giving the said oath unto either of the said candidates until found to be duly elected, which is agreeable to the said order in Council of the 6th. of august 1784, they could not authorize so direct an invasion of their judicial powers; and the said majority, not departing from their resolve, the major part of the Jurats present, having no other recourse were forced to retire from the said assembly, with which, thus constituted they could not co-operate, without appearing to concur in measures they condemn as most illegal an arbitrary, as well as dangerous to the welfare of the country.

By an order in Council, dated as far back as the 2d. of july 1619, it is laid down, that such acts as are made in the said assembly of the States are but provisional ordinances, and have no power or property of laws until they be confirmed by his Majesty in Council; and agreeable

with that order, it has been provided by that of his present Majesty in Council bearing date the 28th. of march 1771, that such provisional ordinances, as are made by the said assembly, are not to continue in force for longer than three years, unless his Majesty's approbation is thereunto given.

The said Lieutenant Bailly and Jurats, conceive that, should the said assembly, contrary to the true spirit of the aforementioned authorities, be suffered to legislate upon points of that nature and importance, the constitution of the country could never be fixed, but must be in perpetual fluctuation and uncertainty; and the judicary powers of his Majesty's Royal Court in the said island, would equally be exposed to invasion, as in the present instance, and though relievant of no authority but that of his Majesty's in Council, might be new modelled, abridged or annulled, as the party-views, interest or caprice of the other two bodies of the said assembly should incline them; and by such means, the country be kept in constant agitation and confusion, in matters of government and property.

Wherefore, the said Lieutenant Bailly and Jurats, humbly beg that your Lordships will be pleased to take the aforesaid proceedings of the majority of the States into consideration on the 15th. of february next, the peremptory day appointed for the hearing the parties by your Lordships upon the said differences; and that your Lordships will be pleased to lay down such rules and regulations thereupon, as to your Lordships' superior wisdom shall seem meet.

*Jersey, 24th. december 1785.*

Signed, *W. C. Lempriere Lieutenant Bailly.*  
*Ph. De Carteret.*  
*Fr. Marett.*  
*Nic. Messervy.*  
*Ch. Payn.*  
*Elias Pison.*  
*Ph. Robin.*  
*John Poingdestre.*



TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of John Arthur of the parish of S. John, in the island of Jersey,*

*SHEWETH,*

**T**HAT an election for the office of Constable in the parish of S. John,

being fixed by an act of the Royal Court on Sunday the 22d. of May 1784, Edward Le Maistre esquire, collecting the votes as the Jurat appointed for that purpose, sixty-eight free-holders of the said parish voted in favour of your Majesty's Petitioner, and only fifty-eight voted for Thomas Lempriere esquire, the other candidate.

That the said Thomas Lempriere, notwithstanding he had declared, at the closing of the poll, he was satisfied with the election, presented a Remonstrance to the Royal Court, praying, not to administer the oath of office to your Petitioner, offering in the mean while to prove that some illegal measures had been put in practice to deprive him of some votes. His suit was admitted.

That several witnesses being called on the 1st. of June following, and some of them examined, the procedure remained suspended till the 14th. of October last, when others were again examined; the affair was put off, and is now left undecided. The said Thomas Lempriere being brother to the Lieutenant Bailly, who is the chief Magistrate on the bench, will no doubt prevail to have this matter referred as long as he thinks proper.

That your Majesty in Council, having been graciously pleased to order, by your act of the 6th. of August 1784, that a contested election is to be decided as soon as possible, and that the former Constable shall act during the contest. The place of Constable becoming vacant by the death of the person who filled it before, and no provision being made in your Majesty's said order for such an event, your Petitioner presented himself to the Royal Court to take the oath of office, in conformity to an act of the States of this island which orders, that, agreeable to the method followed by the honourable House of Commons, the candidate who has an apparent majority of votes shall act during a contest which may happen in this instance; but your Majesty's Petitioner has always been rejected, and, notwithstanding your Majesty's order of the 28th. of March 1771, which considers a Centenier as acting under and by the directions of the Constable, the Royal Court has appointed M. Nicholas Bandains, a new elected Centenier, to act as the true representative of the said parish.

That your Petitioner, besides the majority of votes given in his behalf for the place of Constable, was the first Centenier, and has exercised the office of chief of the police, in the parish of S. John, ever since the death of the late Constable, and as such, has attended the meetings of the States, where he was admitted without opposition; but of late, the said Th. Lempriere, opposing your Petitioner in the exercise of his office, the Royal Court has so far countenanced him, as even to leave their seat in the States, because the Centenier they appointed and which the said Lempriere supported against your Petitioner, was not admitted by that assembly.

That your Petitioner humbly conceives, that the said Th. Lempriere,

being concious of the great inferiority of legal votes given in his favour for the place of Constable, has, with the support of the Royal Court, purposely delayed the conclusion of the said contest, till the election of an other Centenier, in hopes to have some plea, though ever so ill founded, to deprive your Petitioner of ever receiving the oath of Constable.

That, though the parishioners are never convened in civil matters but by the person who is at the head of the police, the said Nicholas Baudains has, in his own name, called several parish meetings, where, without any book or evidence to regulate themselves by, they have transacted every kind of business, regulating taxes, chusing police officers, and in one particular instance, they have elected new inspectors of the publick roads, though the former ones were not present to pass their accounts. These parish meetings have been had in the absence of your Petitioner, and of many of the principal people of the parish. Your Petitioner conceiving these proceedings to be irregular and contrary to a law in our code, which enacts: that before an election of new inspectors of the publick roads shall take place, the former ones shall give account before they are reimplaced, in what manner they have applied the money they were intrusted with, and represented to the Royal Court these unlawfull proceedings; but the said Royal Court, waving all considerations, administered the oath of office to the said inspectors.

That the alarming trouble and confusion which now reigns in the parish of S. John, and is daily increasing, the opposition which the said Thomas Lempriere has always made to prevent your Petitioner from receiving the oath of Constable, the delays which the Royal Court has, apparently shewn, to have the said contested election brought to a conclusion, will, it is most humbly hoped, call your Majesty's Royal attention, to whom your Petitioner looks up for redress, praying that your Majesty, will be graciously pleased to order that the contested election between Thomas Lempriere and your Petitioner shall be referred to a Committee of the States, with full power to investigate the matter and declare who is duly elected to the said office of Constable, that he may be sworn accordingly.

And your Petitioner as in duty bound will ever pray, &c.

*Jersey february 3d. 1786.*

(Signed) *John Arthur.*

TO

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TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of Edward Valpy and John Coutanche of the parish  
of S. John, in the island of Jersey,*

*SHEWETH,*

**T**HAT Edward Le Maître esquire, one of the Jurats of the Royal Court of Jersey, in consequence of an act of the said Court, dated the 12th. of november last, collected the votes of the freeholders of the parish of S. John, on the sunday following, for the election of two Centeniers, in the room of M. John Arthur and M. Peter D'Allain.

That notwithstanding there was a considerable majority of votes in favour of M. John Le Boutillier and M. Nicholas Baudains, your Majesty's Petitioners, having been honoured with the free suffrages of many of the inhabitants of the said parish, represented to the returning officer, on the closing of the poll, that unlawful means had been used to secure a number of votes in favour of the other candidates, and asked for a scrutiny.

That the returning officer ordered all the candidates to appear before the Court on the 15th. instant, in order to be heard in their several reasons.

That, in obedience to the said summons, each of your Petitioners came prepared with an humble remonstrance addressed to the Lieutenant Bailly and Jurats, containing the following grounds of complaint.

- » That above six weeks previous to the said election, all manner of
- » corruption and bribery were put in practice to gain votes in favour
- » of M. John Le Boutillier and M. Nicholas Baudains.
- » That, during all this time, every publick house in the parish was
- » kept open, and liquor profusely distributed to those who promised to
- » support, with their votes and interest, the election of the said M. John
- » Le Boutillier and M. Nicholas Baudains.
- » That in the midst of these riotous meetings the character and re-
- » putation of your Petitioners have often been maliciously traduced, being
- » represented as holding principles most inimical to the publick welfare
- » of the country.
- » That the voters, who remained unbiassed by these outrageous procee-
- » dings, were treated in the most insulting manner for not acceding to
- » the proposals of those that were busily employed at the instigation of
- » the opposing party.

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„ That Thomas Lempriere esquire, the principal agent in these unprecedented measures, strongly intermeddled in favour of the said Le Boutillier's and Baudain's election, by bribes, threats and promises, distributing himself such quantity of strong liquor before, and on the day of election, that many, in contempt of religion and common decency, went to church so much intoxicated that they were hardly able to give their votes.

„ That these violent and unusual means of depriving the people of the liberty of election have made such an impression on the minds of the freeholders in the parish of S. John that a great many, who otherwise would have voted for your Petitioners, have declared they would not venture to do it, for fear of exposing themselves to the resentment of people in power.

„ If such violences, bribes, threats, and promises, which are forbidden in every country, but particularly in England, had not been used, your Petitioners have all manner of reason to think they should have carried the election by a great majority of votes; they humbly pray therefore to be allowed to prove by witnesses the above stated facts, in order that, after having asserted their right, they may be admitted to the office of centenier in the parish of S. John; and your Petitioners as in duty bound shall ever pray, &c.

„ Delivered in Court the 15th. of november 1785.

That your Majesty's Petitioners having delivered to an advocate a representation to the above effect, one of them was read, namely that of M. Valpy. When the advocate attempted to speak upon the merit and admissibility of it, he was interrupted by the Lieutenant Bailly, brother to the said Thomas Lempriere, declaring that his brother, far from deserving the imputations alledged in the said remonstrance, had restored the good peace of the parish; and that your Majesty's Petitioners aimed at nothing else but trouble and confusion. The advocate, to evince the right your Petitioners had to be heard, represented that their complaint was of the most serious nature, that no less than five disputed elections were still depending before the Court; but the Lieutenant Bailly stopped him again, pretended he should not presume to speak when he, as chief Magistrate, had declared his sentiments. He asked the opinions hereupon, and the Court then determined, that the advocate should not speak on that subject; and the said Le Boutillier and Baudains were sworn into the office of Centeniers.

This being a striking instance of the partiality of a Court of justice, that any of your Majesty's subjects should be denied the assistance of a Council or the privilege of being heard even in the most trifling presentations, your Majesty's Petitioners conceive, they have been wronged in this instance: they hope, it will appear to your Majesty, that the Royal

Court, and particularly the Lieutenant Bailly, cannot avoid the imputation of partiality in this affair, having admitted a representation of the said Thomas Lempriere, who complained, that some pretended irregularities had been put in practice in an election of Constable in the same parish, for which he was a candidate.

The Royal Court, out of regard to a single individual, namely the brother of the Lieutenant Bailly, having refused to hear the complaint of your Petitioners, and having thus debarred them of access to common justice in your Majesty's island of Jersey; your Petitioners humbly look up to your Majesty for redress; and, as the above facts are only to be asserted by witnesses, they humbly pray, that your Majesty will be graciously pleased to order, that this affair should be referred to a Committee of the States, chosen by ballot, who shall meet every day till the matter is settled, and that your Petitioners, after having shewn their right, may be sworn to the office of centeniers in the parish of S. John; and your Petitioners, &c.

*Jersey february 3d. 1786.*

Signed *Ed. Valpy. John Coutanche.*

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TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of John Dumaresq an inhabitant of the parish of S. Saviour, in the island of Jersey,*

*SHEWETH,*

**T**HAT your Petitioner, encouraged by a great number of the most respectable and independent freeholders of the parish of S. Saviour, became a candidate for the office of constable in the said parish, and on the 7th. of august 1785, was duly elected constable, by a majority of one vote.

That in the same month of august, your Petitioner appeared before the Court, and prayed to be sworn into the said office, as is customary; but upon a petition presented to the Court by M. John Poingdestre, the late constable and a competitor in the present election, the Court did not judge proper to swear in your Petitioner, but admitted the King's officers to take information.

That a term of near three months' duration being then coming on, your Petitioner persuaded himself that the point in contest would be determined in the course of the said term, the more so as it is a question of a publick nature..

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That your Petitioner, not chusing to rely on the dispatch of his competitor in this business (who nevertheless was the proper party to hasten the decision of the cause, he being the Petitioner) has almost every day, during the term, prayed, by means of his advocate, that the Court would be pleased to fix a day for the hearing of this cause; but his repeated applications have been ineffectual: not a single witness has been called, nor a further hearing given to the business, notwithstanding that many other trivial and new causes have passed.

That your Petitioner is under the necessity of representing to your Majesty, that the returning officer, appointed by the Court to collect the votes in this election, is father of the other candidate, and acted naturally with great partiality; that the same returning officer is a Jurat of the Court; that the Lieutenant Bailly or chief magistrate is a brother in law of the other candidate; that two other Jurats of the Court are uncles to the said candidate and another Jurat colonel of a regiment of militia, of which he is lieutenant colonel; that moreover, the Court has taken a decided part in all the publick disputes which have of late years happened in the island.

It must be further observed, that, by the operation of an order from your Majesty in Council bearing date the 6th. of august 1784, the candidate (being the old constable) remains and continues to sit and vote in the assembly of the States while this contest is depending before the Court, and it is at the same time however provided by the same order of your Majesty, " that the constable shall be sworn in as soon as possible, after he shall have been duly elected. "

That from the above considerations, and seeing the delays which keep other constables and centeniers from being sworn into office, particularly that for the parish of S. John, where the election for a constable took place as far back as the 23d. of may 1784, and which to this day remains undetermined, your Petitioner cannot but feel and express his apprehensions that his future endeavours will prove as fruitless as they have hitherto been, if the matter is left in the channel where it rests.

Your Petitioner therefore most humbly prays that agreeable to ancient usage he, or his competitor, if declared duly elected, may be sworn into office before the assembly of the States as a member thereof; that the States be directed either by themselves or by means of a committee to try the merits of the said election, and that they do sit from day to day until the question be determined, or such other relief in the premisses as to your Majesty in your great wisdom shall seem meet. And your Petitioner as in duty bound will ever pray, &c.

*Jersey january 1786.*

*John Dumaresq.*





TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of Thomas Anley, an inhabitant of the town and parish of S. Helier, in the island of Jersey.*

*S H E W E T H,*

**T**HAT your Petitioner a few months since was unanimously chosen centenier of the said parish, and that an election for the office of constable having taken place on the 27th. day of november last, he was encouraged by the sollicitations of a great number of the principal inhabitants of the said parish to offer his services, and that he obtained a majority of votes.

That he presented himself at Court to be sworn into the office of constable, but the other candidate presenting himself also alledging that he had the majority of legal votes, the oath was deferred and both candidates ordered to make good their respective pretentions.

That the Court, who try contested elections, having espoused a party, your Petitioner has the greatest reason to apprehend that the same unwarrantable delays which have hitherto kept other constables elect from their right will prevail in his case, and deprive perhaps for years the parish of S. Helier of its legal representative.

That your Petitioner is founded in these apprehensions by a declaration of the Lieut. Bailly from his feat that the former constable should continue in office at least two years longer.

That your Petitioner humbly conceives it inconsistent with the independence of a legislative assembly, and liable to the greatest abuses, that contested elections of its own members should be submitted to any other tribunal.

That, prompted by these considerations, your Petitioner humbly prays your Majesty would be graciously pleased to change so erroneous a system, and order that henceforward all contested elections should be decided by a committee of the States agreeably to the practice of the honourable House of Commons. And your Petitioner as in duty bound will ever pray, &c.

*Jersey 31st. january 1786.*

*Signed Thomas Anley.*

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of Ph. Nicolle, Centenier elect for the parish of S. Martin, in the island of Jersey.*

*SHEWETH,*

**T**HAT on the 15th. day of november 1785, an election of two centeniers for the said parish of S. Martin was ordered by the Royal Court to be held on sunday following; in consequence of which four candidates offered themselves, whereof one, being on the next Court-day returned as having a majority of votes, was immediately admitted to take the oath of office.

That your Petitioner and M. Geo. Gaudin had each the same number of votes for the other office of centenier, and presented themselves in Court; before which the said Gaudin made voluntarily and without sollicitation a formal cession in favour of your Petitioner of all right and pretensions he had to the election.

That your Petitioner having then demanded to take the oath of office: was opposed by M. John Mallet the fourth candidate, although the said Mallet had an evident inferiority in the number of votes. Your Petitioner's cause hath not yet been brought to a conclusion; the Lieutenant Bailly who voted in favour of your Petitioner's opponent having positively declared that it should not be decided before next spring.

That your Petitioner hath therefore reason to fear that his opponent, supported by the patronage of the Lieutenant Bailly, who is Judge and party in his own cause, may find various pretences of delay to keep him out of the office of centenier, to which he hath been legally chosen as he apprehends, and may involve him into unnecessary trouble and expence.

Alarmed therefore at these proceedings, and at the general confusion relative to elections that seems daily to increase in this island, your Petitioner finds himself under the necessity of appealing to your most excellent Majesty in Council, humbly praying that your Majesty will be graciously pleased to order; that his election may be forthwith determined by a Committee of the States of the island, chosen by ballot, pursuant to the mode adopted by the honourable House of Commons in England in the case of contested elections for members thereof; and also agreeably to the ancient custom of this island in the case of substitutes, to whom a centenier is often obliged to act in the States as substitute.

And your Petitioner as in duty bound will ever pray, &c!

Jersey february the 3d. 1786.

Signed Ph. Nicolle!



TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of several of the principal freeholders of the parish of S. Helier, in the island of Jersey, hereunto subscribed, in behalf of themselves and others the inhabitants of the said parish.*

*SHEWETH,*

**T**HAT the uncertainty and defects in the laws both civil and criminal, and the want of political order have for many years past been subjects of general concern in the island of Jersey.

That in the present state of things the inhabitants of this country feel their condition to be truly deplorable, without any fixed laws to set bounds to the exercise of judicial authority and ensure the property of the subject, and with a legislative assembly rendered ineffectual by the repeated desertion of the majority of the Jurats, whenever any law is enacted without the sanction of their approbation.

That the disputes and animosities, that have so long agitated the minds of the people, originated, as your Petitioners humbly conceive, in a constant struggle on the part of the Royal Court to regain that superiority over the legislative body, of which your Majesty so wisely de vested them in your order of the 28th. of march 1771, in which it is provided that no provisional law shall be passed but by the whole assembly of the States.

That finding themselves possessed of almost unlimited authority in consequence of the confusion, uncertainty, and ambiguity of the laws, the Jurats cannot but feel it their interest to impede the enactment of any, as every new law necessarily occasions a diminution of their discretionary power.

That this place is now become the wretched scene of irreconcilable animosities, carried to such alarming extremity as must endanger the future safety of the island, if some effectual remedy is not applied.

That the States have long had it in contemplation, and have often declared it indispensably requisite for the peace and prosperity of this country, to pray for a reformation in the constitution and laws, but have hitherto been prevented from carrying so salutary a measure into effect by those who find their advantage in the existing evil. We are informed that

on the 21<sup>st</sup>. of may 1783, an act was prepared which has this preamble : " The States considering the difficulties and contests, which daily arise  
 " in the different branches of the political body to the great prejudice  
 " of the inhabitants of the island, the impediments on the most impor-  
 " tant subjects, and the obstacles made to the ordinary course of business,  
 " occasioned by the uncertainty of the rights, functions, duty and com-  
 " petency of each of them, the law-suits and troubles to which indi-  
 " viduals are brought by not knowing which authority they are to sub-  
 " mit to, and that the publick in short are become victims of this  
 " pernicious disorder, have thought it their duty, and of indispensable ne-  
 " cessity in the present conjuncture, to address with all humility his most  
 " excellent Majesty, the gracious Sovereign and protector of this island,  
 " praying that his Majesty will be graciously pleased to order such mea-  
 " sures as in his Majesty's great wisdom shall seem meet to restore pu-  
 " blick tranquility, &c. " This motion met with the concurrence and  
 support of a large majority of the members of the States, but, owing to  
 an objection of the President, has remained suspended and without effect.

That several humble petitions were presented to your Majesty re-  
 specting the same unfortunate state of affairs in this island in the year  
 1783 and 1784, particularly one from the major part of the members  
 of the States, and one from upwards of one thousand persons, both  
 praying, " That your Majesty would be graciously pleased to take into  
 " your Royal consideration the present unhappy and precarious state of  
 " political rule and order in the island of Jersey, being well assured that  
 " your Majesty in your great wisdom, after due information of the never-  
 " ceasing cause of troubles and disputes, would permit such regulations  
 " to be made as will secure the rights, prescribe the duty, and ensure  
 " the peace of all ranks of persons in your Majesty's island of Jersey, &c. "

That in the month of july last, several representations were made to the  
 States by the parish assemblies of the island, complaining of various points  
 in the present practice of the laws; that among them are many real grie-  
 vances which your Petitioners expected to be laid before your Majesty  
 by the States, as the proper means of obtaining redress. But a total  
 stop being again put to the proceedings of the States by the desertion  
 of a major part of the Jurats, yours Petitioners and the publick are  
 thereby deprived of the means of being heard on any subject through  
 the medium of the States as a corporate body.

That a day being fixed in february next by the right honourable the  
 Lords of the Committee of Council for the determination of some im-  
 portant points respecting the political government of Jersey, and your  
 Petitioners humbly conceiving the reformation of abuses in the civil and  
 criminal laws of the island to be of no less importance and of a still  
 more universal concern, most humbly pray that your Majesty will be  
 pleased!

pleased to permit the consideration of the same on the day so fixed by their Lordships, and that in regard to the loyalty and firm attachment of your Majesty's faithful subjects in this island, and in the abundance of your paternal goodness, so often manifested to them, your Majesty will be graciously pleased to grant to the inhabitants of Jersey, such effectual means of removing the evil they have long laboured under, as to your Majesty in your great wisdom shall seem meet.

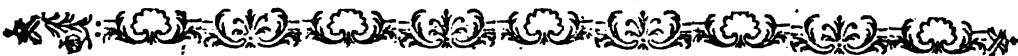
And your Petitioners, as in duty bound. will ever pray, &c.

*Jersey the 27th. of january 1786.*

*The above Petition was signed by fifty-two of the most respectable inhabitants of the parish of S. Helier in point of rank and fortune. A similar one was signed by people of the same description in different parishes; in S. Owen's twelve, in S. Mary's thirteen, in Grouville's and S. Clement's thirty-two, in S. Brélade's twenty-nine, in S. Martin's seventeen, in S. Peter's twenty-two, in S. John's thirteen.*

*The points in dispute, undetermined, between the States and the Royal Court, which had been appointed by the right honourable the Lords of the Council to be heard on the 15th. of february 1786, were further deferred to the ensuing week, at the solicitation of the Lieutenant Bailly, and were then finally discussed before their Lordships. The order that issued thereupon did not come out before the 2d. of june 1786.*

*An election for the office of Jurat in the island of Jersey, vacant by the death of Nicholas Fiott esquire, having taken place on the 19th. of february, and James Hammond esquire having been returned by the Jurats and other members of the Royal Court acting as returning officers, as duly elected, the following remonstrance was presented to the Royal Court by Philip Dumaresq gentleman, the other candidate.*



*A monsieur le Lieutenant Bailly & à MM. les Jurés-justiciers de la Cour Royale de l'île de Jersey.*

*Ph. Dumaresq gentilshomme, présentement habitant de la paroisse de S. Brélade & né dans celle de S. Pierre, très-humblement remontre,*

**Q**U'UNE place de Juré-justicier étant devenue vacante, au siège de justice, par la mort de Nicolas Fiott, écuyer, un des Jurés-justiciers de la Cour royale de ladite île, la Cour ordonna que dimanche 19 février 1786, on procéderoit dans toutes les paroisses de cette île, à l'élection d'une personne pour remplir ladite charge.

Que votre Remontrant fut honoré des suffrages libres d'un grand nombre des principaux & autres habitans du pays, dûment qualifiés pour voter dans les élections des juges & des connétables.

Que Jacques Hammond, écuyer, eut aussi plusieurs voix dans les différentes paroisses, & qu'il semble même, par le rapport qui en est fait, qu'il y a une pluralité en sa faveur.

Que ledit Jacques Hammond, écuyer, n'étant pas né dans l'île de Jersey, n'y peut exercer l'office de Juré-justicier, sans enfreindre l'article exprès des constitutions du roi Jean, pour les îles de Jersey & de Guernesey, lequel a été confirmé par plusieurs ordres subséquens, & qui est conçu en ces termes :

« *Ii debent eligi de indigenis insularum per Ministros Domini Regis & optimates Patriæ, scilicet post mortem unius eorum alter fide dignus, vel alio casu legitimo, debet substitui.* » C'est-à-dire, eux, les Juges, doivent être choisis des indigènes des îles, par les Ministres du seigneur Roi, & par les principaux de la patrie; savoir après la mort d'un d'entre eux, ou pour quelque autre raison légitime, un autre digne de foi, doit être substitué.

Que si, dans la suite des temps, cet article a subit quelque changement au sujet des électeurs, il n'en a reçu aucun par rapport à la personne qui doit être élue; que ce seroit enfreindre un de nos plus beaux privilèges, & ouvrir la porte à toutes sortes d'abus, que d'y porter la moindre atteinte; qu'une infraction en attire toujours une autre, & que d'ailleurs on doit naturellement espérer plus de protection d'un indigène que d'aucun autre, quelque propriété qu'il puisse avoir parmi nous.

Qu'il n'y a jamais eu aucun indigène de ladite île connu sous le nom que porte ledit Jacques Hammond, écuyer, partant on le désie de montrer, par aucune preuve par écrit, qu'il soit même d'extraction jersioise.

Que plusieurs personnes qui ne sont pas au rât, des enfans de famille & autres qui n'ont pas les qualifications requises par la loi, ont voté pour ledit Jacques Hammond, écuyer, & que d'autres qui avoient coutume de voter dans les élections précédentes & qui se proposoient de donner leur voix en faveur de votre Remontrant en ont été empêchés.

Que des dons, des menaces, des promesses & des violences de toutes espèces, ont été mis en usage, au préjudice de votre Remontrant, & pour obliger le peuple à voter contre lui.

Que plusieurs de ceux qui avoient le courage de rester fermes dans les intérêts de votre Remontrant, ont eu la mortification de se voir arrachés hors de chez eux & enfermés dans des maisons particulières, d'où, après les avoir mis dans un état d'intempérance, on les menoit, presque hors de connoissance, voter pour ledit Jacques Hammond, écuyer.

Que les violences & les injures ont été portées à un tel degré, que votre Remontrant a reçu des applications réitérées de la part des personnes qui lui demandoient sa protection; que lui-même, accompagné de plusieurs témoins, a vu un homme renfermé dans une chambre au cadenas, avec un soldat pour le garder; cet homme faisoit tous les efforts pour s'échapper par la fenêtre, afin d'aller donner sa voix à votre Remontrant.

Que des personnes en pouvoir ont envoyé, à des gens dans leur dépendance, des messages & des billets, qui leur faisoient craindre pour eux ou leurs enfans, d'être privés de leur subsistance, s'ils ne donnoient leurs voix pour ledit Jacques Hammond, écuyer.

Qu'on a poussé les choses au point qu'un particulier, craignant pour sa vie, s'est plaint qu'on l'avoit menacé de le poursuivre dans les rues, & un autre, de le pendre à la porte de l'église, s'ils osoient voter pour votre Remontrant.

Que des gens en charge se sont tellement livrés à l'esprit de parti, qu'ils ne pouvoient pas s'empêcher de faire éclater leur animosité jusque dans l'église, de maltraiter & pousser avec violences, ceux qui avoient la résolution de voter pour votre Remontrant; & d'en obliger d'autres, par force, à retracter leur opinion.

Qu'un grand nombre de ceux qui ont voté pour ledit Jacques Hammond, écuyer, ont déclaré depuis, qu'ils auroient donné en faveur de votre Remontrant, sans les menaces qu'on leur faisoit & les craintes qu'on leur inspiroit d'un jour à l'autre.

Que plusieurs connétables & autres officiers de police, ont assuré à votre Remontrant que les voies les plus illicites, des violences de toute espèce, des traites, des promesses, des menaces, ont été mises en usage pour le frustrer de la bonne intention du peuple, que des gens qui n'avoient pas voix ont donné contre lui, qu'on en a refusé d'autres qui avoient droit de voter & qui avoient dessein de lui donner leurs suffrages.

Que Pierre Mauger gent., stipulant à l'office d'Avocat du roi & connétable de la paroisse de S. Laurens, après avoir été dans sa propre paroisse & ailleurs, solliciter les particuliers en faveur dudit Jacques Hammond, écuyer, a encore recueilli les voix & suffrages du peuple dans la même paroisse; ce qui ne pouvoit que tourner au préjudice de votre Remontrant, puisque la présence dudit connétable devoit absolument intimider les uns & forcer les autres à voter contre leur inclination.

Or donc, la Cour ayant fixé sur le 19 février pour élire un Juré-justicier, votre Remontrant, d'après les diverses allégations faites ci-dessus, & convaincu qu'il y a une pluralité de voix légales en sa faveur, se croit le seul fondé en justice à demander à la Cour de lui administrer le serment de Juré-justicier. Votre Remontrant se croit de plus autorisé

à regarder comme absolument nulles les voix données à Jacques Hammond, écuyer, vu qu'il n'est point indigène de cette île, & cela en vertu de l'article troisième des constitutions du roi Jean, qui est si positif à cet égard, qu'il n'admet aucune équivoque : il debent eligi de indigenis insularum, &c., ce qui veut dire, mot pour mot, ceux-là (sous entendus les Juges) doivent être choisis parmi les indigènes des îles. Il est bon d'observer que ce mot des îles n'a d'allusion qu'à Jersey & à Guernesey, & quant au mot indigène, l'Encyclopédie en explique la signification d'une manière si précise & si claire qu'on ne peut révoquer en doute que l'article troisième des constitutions du roi Jean, ci-dessus mentionnées, n'implique positivement, par ce mot indigène, qu'un homme né dans lesdites îles. Partant votre Remontrant demande la due exécution d'un article aussi essentiel aux privilèges des indigènes du pays & au bonheur de la communauté, il demande que le serment de Juré-justicier lui soit en conséquence administré, & supplie humblement la Cour de prendre le contenu de ladite remontrance en considération; d'ordonner en outre que les divers recueils des voix & suffrages du peuple, aussi bien que le rôle des différentes paroisses, soient logés au greffe, pour qu'il puisse y avoir recours à faire preuve des faits sus-allégués, afin que la violence & la fraude soient, par votre bonne & saine justice, reprimées suivant à leur démerite.

Et votre Remontrant selon que très-obligé priera, &c. &c.

*Délivré en Cour séante, le 4 mars 1786.*

*Signé Ph. Dumaresq.*

Moi Edouard Remon, notaire public, dûment admis & juré par autorité royale, demeurant en l'île de Jersey, certifie que le contenu ci-dessus est la vraie copie mot pour mot de l'original qui m'a été produit par Philippe Dumaresq gent., en présence de la Cour royale de cette île, ce quatrième jour de mars, l'an mil sept cens quatre-vingt six. En témoignage de quoi j'ai apposé mon signe & sceau d'office en ladite île de Jersey, où le papier timbré n'est point en usage.

*In præmissorum fidem.*

*Ed. Remon, notaire public.*



TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble Petition of Ph. Dumaresq of the island of Jersey,*

*SHEWETH,*

**T**HAT an office of Jurat of the Royal Court of the said island being vacant by the death of Nicholas Fiott esquire, the said Royal Court



ordered that an election for the said office of Jurat should take place in the twelve parishes of the island of Jersey, on Sunday 19th. of February 1786, and for that purpose appointed twelve members of their own body, Jurats and others, to collect the votes and act as returning officers in the said respective parishes.

That, for several days prior to the said election, every sort of undue influence, corruption, fraud, and even violence had been put in practice by persons in power and office to deprive your Petitioner of the free votes of the people, and on the day and time of election the same unlawful means were again used with success against him.

That, notwithstanding these unlawful measures and a powerful opposition, your Petitioner was on the day of election, honoured with the votes and support of the most respectable and independent persons of the island, and had in the whole nine hundred and thirty nine votes.

That James Hammond, the other candidate for the said office of Jurat had nine hundred and fifty nine votes, being twenty more on the poll than your Petitioner.

That the time of voting throughout the twelve parishes being at the same hour, your Petitioner was not able to attend but one place of polling, nor could maintain his right in the other parishes. But being informed by several persons of credit, that very unfair advantages had been taken, and a great number of illegal votes admitted by the returning officers, in favour of the said James Hammond, upward of forty in one parish only; and that on the other hand several good votes offered in favour of your Petitioner, had been refused by the said returning officers, your Petitioner was encouraged and persuaded by all his friends to demand a scrutiny, and petition against the admission of the said James Hammond to the office of Jurat.

That accordingly, on 4th. of March following, being the day fixt for the return of the different polls, your Petitioner presented an humble petition to the Royal Court stating in the first place, a disqualification in his opponent for the said office of Jurat, viz: that the said James Hammond was not born in either of the islands of Jersey or Guernsey as is required by the constitutions of King John, in these words: " *Li debent eligi de indigenis insularum per Ministros Domini Regis & optimates Patriæ, scilicet post mortem unius eorum, alter fide dignus, vel alio casu, legitimo debet substitui.* " Stating in the next place, that a great number of illegal votes had been admitted on the different polls in favour of the said James Hammond, contrary to the order of Council of the 19th. of May 1671, 9th. of July 1735, and 12th. of March 1771, by which orders it is settled: " that none shall be admitted to vote at the election of Jurates and Constables except such as contribute to publick taxes, and to the provisions made for the poor, and are masters of

“ families. ” And lastly, setting forth the illicit and unwarrantable measures by which your Petitioner had been prejudiced in his election, such as gifts and promises to some of the voters, threats of punishment and of ruin, to others, open violence to many, and to one man actual imprisonment under lock and a soldier's guard. These and sundry other facts your Petitioner laid in writing before the Royal Court, submitting the whole to their consideration, and humbly praying that the Royal Court would be pleased to order that the several returns, and the rates of the parishes should be lodged au greffe as is usual, in order to have recourse thereto, and that your Petitioner might be permitted to prove the facts above-stated, and be sworn into the office of Jurat accordingly.

That, instead of allowing your Petitioner the means of proving the facts he alledged, or of granting him a scrutiny, the Royal Court rejected altogether the application of your Petitioner, refused to admit or take notice of his petition, denied him the right of inspecting the polls and of depositing them au greffe, as has been the constant usage. Each of the returning officers, from the Lieutenant Bailly and Jurats down to the Greffier of the Court, and the common Serjeants of justice, took upon himself individually to discriminate the number of good from the number of bad votes he had upon his list, which as many of them said, they had scrutinized in private. All this, however new and extraordinary was allowed by the Court without further enquiry or examination. The lists remained with the returning officers, and the Royal Court, contrary to all former precedents, immediately administered the oath of Jurat to the said James Hammond and admitted him to a seat on the bench of Justice : deciding thereby against your Petitioner without evidence and without appeal ; and leaving him no means of redress but that which he now, with great humility but with intire confidence, looks up for through your Majesty's gracious interposition.

That, in addition to the facts above-mentioned, your Petitioner cannot forbear representing to your Majesty, that almost all the members of the Royal Court have taken a warm, active, and decided part against your Petitioner, previous to, and at the time of the said election : being first the Agents of his opponents, then returning officers, and lastly his Judges : that your Majesty's Advocate general, the other advocates of the Court, the Denonciators or Serjeants of justice, your Majesty's Store-keeper and Commissary, have all taken the same active part and strongly intermeddled in the said election, making use of the powerful influence which their respective offices give them on the minds of the people, going from parish to parish, intimidating some, and winning over the votes of other electors.

Under these circumstances, when the arbitrary and partial proceedings of the Royal Court of Jersey is the subject of grievance, your Petitioner

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stands in need of your Majesty's particular protection for the attainment of Truth and Justice, and your Petitioner in that reliance, most humbly prays that your Majesty will be graciously pleased to allow him the mean's of proving the facts above-stated, and also to try the merits of the said election before an impartial and disinterested tribunal ; that to effect this, your Majesty will be graciously pleased to order ( as was done in the disputes between the Bailly and Jurats of Guernsey by order of 3d. of april 1776 ) that the Lientenant Governor of the island of Jersey, taking to his assistance any two or more impartial persons, shall take the depositions of witnesses upon the several facts above-mentioned ; otherwise, that your Majesty may be graciously pleased to name any number of impartial Commissioners or special Judges in the said island of Jersey for the purpose above-mentioned, as was done by the order of the 4th. of june 1590, upon the disputes then subsisting between the Governor and two Jurats of Jersey. Or lastly, that the question respecting the said election be brought before the whole body of the States of the island, as was the original and constant usage until about the year 1620, when this right was usurped by the Royal Court. These and such other mode of justice and redress as to your Majesty in your great wisdom shall seem meet. And further, your Petitioner most humbly prays, that your Majesty will be graciously pleased, provisionally to order, that the said twelve returns of polls and the parish rates be now lodged au greffe for the inspection of the parties : and that the said James Hammond shall not exercise the functions of a Jurat of the Royal Court of Jersey until the merits of the said election be determined.

And your Petitioner, as in duty bound, will ever pray &c. &c. &c.

*Island of Jersey, march 22th, 1786.*

*signed Ph. Dumaresq.*



AT THE COURT AT S. JAMES'S, THE 8th. OF AUGUST 1787,

P R E S E N T,

T H E K I N G ' S M O S T E X C E L L E N T M A J E S T Y,

|                        |                    |
|------------------------|--------------------|
| HIS ROYAL HIGHNESS     | EARL OF LEICESTER, |
| THE DUKE OF YORK,      | VISCOUNT HOWE,     |
| ARCH. OF CANTERBURY,   | VISCOUNT GADWAY,   |
| LORD CHANCELLOR,       | LORD SYDNEY,       |
| LORD PRESIDENT,        | LORD WALHINGHAM,   |
| MARQUIS OF BUCKINGHAM, | LORD HAWKESBURY,   |
| MARQUIS OF CARMARTHEN. | LORD HERBERT,      |
| LORD CHAMBERLAIN,      | SIR JOSEPH YORK,   |
| EARL OF AYLESFORD,     | WILLIAM PITT esq:  |
| EARL OF EFFINGHAM,     | SIR JOHN SKINNER.  |

**W**HEREAS there was this day read at the Board a report from the right honourable the Lords of the Committee of Council, for the affairs of Jersey and Guernsey, dated the 2d. of this instant, in the words following, viz.

" Your Majesty having been pleased, by your order in Council of the 22d.  
 " of march 1786, to refer unto this Committee, a petition of doléance of Ph.  
 " Dumaresq of the island of Jersey, complaining of a denial of justice  
 " from the Royal Court, for that he being a candidate for the office of  
 " Jurat in the room of Nicholas Fiott deceased, together with James Ham-  
 " mond esq. and the latter being returned as legally elected by the majority,  
 " he, the said Philip Dumaresq, did petition the Royal Court, suggesting  
 " many bad practices and corrupt proceedings against him at the said election,  
 " and insisting that he had a majority of legal votes, and praying that the  
 " return and the rates of the parishes should be lodged au greffe, as is  
 " usual, in order to have recourse thereto, and that he might be permitted  
 " to prove the said facts, and be sworn into the office accordingly: but  
 " that the Royal Court, instead of receiving his petition, and proceeding  
 " to try the merits of the election, under the pretence that the Jurats, who  
 " were the returning officers, had, by a private scrutiny among themselves,  
 " examined the poll, and found upon examination that the said James  
 " Hammond had upon such inspection a greater majority than he appeared  
 " to have upon the poll, had rejected the petition, without hearing the  
 " cause, and by an act of the Royal Court which was annexed to the said  
 " petition, presented to your Majesty, adjudged the said James Hammond  
 " to be duly elected, and administered to him the oath of a Jurat, and  
 " that he had taken his place upon the seat of justice accordingly; and

further

further that the Royal Court had refused to allow the Petitioner an ap-  
 peal to your Majesty, under pretence that this case was not appealable ;  
 the Lords of the Committee, in obedience to your Majesty's said order  
 of reference, did on the 25th. of the said month, take the said peti-  
 tion of doleance into their consideration, and thought proper to re-  
 quire the Royal Court to return their answer thereto in writing, by  
 which it appears that the matter of the said petition is true, so far  
 as respects the application of the said Philip Dumaresq to the Royal  
 Court ; the rejecting of his petition without hearing the cause ; the  
 judgment in favour of the said James Hammond ; the administering the  
 oath of office to him, and receiving him upon the bench of the Ju-  
 rats, and the refusing the said Petitioner his appeal. And the Committee  
 having been attended by council on behalf of the said Philip Dumaresq,  
 none appearing for the Royal Court, the said Royal Court not think-  
 ing it necessary to employ any agent or council to justify or excuse  
 their proceedings, but leaving their defence upon the answer so returned  
 to this Committee (as aforesaid) and having considered the matter of the  
 said complaint, the Committee are of opinion that the Royal Court upon  
 this occasion have forgot their duty and character of Judges, and have,  
 in a most arbitrary and unwarrantable manner, decided the cause without  
 hearing the parties ; in which respect, the Committee humbly offer as  
 their advice to your Majesty, that it may be proper for your Majesty to  
 order, that the said act of the Royal Court, adjudging the said James  
 Hammond to be duly elected, be utterly annulled and erased from the  
 records of the island ; and that your Majesty may be pleased further to  
 order, require, and command the Royal Court forthwith to proceed to  
 the hearing the said matter in a judicial way ; and that the evidence on  
 both sides may be taken down in writing and returned to your Ma-  
 jesty in Council, together with the judgment, in case either party should  
 think fit to appeal : and that the said James Hammond be suspended  
 from acting in the office of Jurat : and that neither of the Candidates  
 be admitted to a seat upon the bench of Jurats till after this election  
 be finally determined.

His Majesty having taken the said report into his Royal consideration,  
 and approving of what is therein proposed, is pleased by and with the ad-  
 vice of his Privy Council, to order, (as it is hereby ordered) that the  
 act made by the Royal Court of the said island, adjudging the said James  
 Hammond to be duly elected to the office of Jurat, be utterly annulled  
 and erased from the records.

And his Majesty doth hereby order, require, and command that the said  
 Royal Court do forthwith proceed to the hearing the petition of the said  
 Philip Dumaresq, touching the merits of the said election, in a judicial way ;  
 and that the evidence on both sides be taken down in writing, and returned  
 to his Majesty at this board, together with the judgment pronounced there-

upon, in case either party should think fit to appeal. And that the said James Hammond be suspended from acting in the office of Jurat; and that neither of the candidates be admitted to a seat upon the bench of Jurats, till after this election shall be finally determined. And his Majesty doth hereby direct that this order be registered in the Royal Court of the said island.

Whereof the Bailly and Jurats of the Royal Court are to take notice and govern themselves accordingly.

signed

Steph. Cottrell.



N. B. The following answer of the Court to the dolence of Ph. Dumaresq, ought to have been inserted before the above order.

To the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey.

MY LORDS,

**I**N obedience to your Lordships' order of the 28th. of march 1786 directing an answer to be returned in writing to a petition of dolence of Philip Dumaresq; we beg leave to observe to your Lordships that it would be a matter of great concern and surprise to us to find our integrity as Magistrates so violently impeached, if we were not long since accustomed to the same treatment from the same quarter, a printing office having been set up in the dwelling house of the said Dumaresq, whose chief employ has been to circulate anonymous productions of the most indecent, unjust, and illiberal nature against the members of the Royal Court both in their public and private characters. We flatter ourselves that it will appear to your Lordships, that our conduct as Magistrates, in the election complained of, was such as it ought to be.

On sunday the 29th. of february 1786, on the death of Nicholas Fiott, Esquire, an election took place in the twelve parishes of this island, after divine service in the morning, as has ever been accustomed. The Jurats and Officers of the Royal Court absolutely deny, that previous to or at the time of election they have made use of threats, promises or any other unwarrantable influence; they have all studiously endeavoured to discountenance every attempt made against the freedom of election, and if some of them have interfered in the said election they can solemnly assure your Lordships that they have gone no further than to vote for, and to recommend, in a decent manner, the person they looked upon to be the fittest to occupy the vacant office. This our conduct, we humbly conceive, is so far from giving room to the imputation of fraud and vio-

tence, that it is sanctified by the usage ever followed in such cases; and is perfectly constitutional; the constitutions of king John say " debent eligi per Ministros Domini Regis & optimates Patriæ; " which surely indicates that they were originally the electors; and which seems to have been the motives on which two letters of king Charles the second were sent to the Royal Court, the last in the year 1667 the 17th. of april, in which this Royal Court is enjoined not to suffer any person to be admitted into the office of Jurat contrary to the King's former directions, and that if any such should chance, through ignorance of the people or otherwise, to be chosen to the said office, to issue new orders for the people to proceed to a new election.

As to the complaint of the Doleant, that from the polls being held at the same time in the twelve parishes, he was unable to attend to his interest, we beg leave to observe that it is the usage invariably followed in all general elections, and that in this respect he was under no greater disadvantage than the other candidate, and that by this mode of proceeding it was effectually out of the power of the Magistrates who collected the votes to use (which God forbid they should have been inclined to do) that influence which the Petitioner complains of, most of them being out of their parishes and thereby unable to avail themselves of their interest.

As to the disqualification pretended by the said Dumaresq in M. Hammond, as not being born in either of the islands of Jersey or Guernsey, which he pretends to be requisite by the constitutions of king John which say " debent eligi de indigenis insularum; " we hope your Lordships will think that we have not been guilty of injustice in not judging M. Hammond, though born in London, an alien; the words above cited being generally understood not to exclude from that office the aborigines of the island, but were meant no doubt to exclude the inhabitants of the province of Normandy, from which this island (which remained under the dominion of the King of England) was just then separated.

The father of M. Hammond was a native of this island, descended from natives for many generations, was possessed of inheritance in it which he never disposed of; he resided for several years as merchant at Faro in Portugal, where he had the honour of being british Consul; on his return from thence he was married to the mother of the said James Hammond, who was daughter of a M. Lempriere native of Jersey also, and descended from natives for very many generations; as soon as he had settled his affairs he returned to this island where he purchased in addition to his former estate, the manor of Samarés, one of the first in value and dignity in this island, on which he resided to the day of his death; and where his son, the said James Hammond, was brought up till he removed to England for his education, which he completed

at Hertford College in Oxford. M. James Hammond is not the first instance of a person born out of the island being admitted to exercise the office of Jurat. M. Charles Poingdestre, though born in Oxford, exercised the same office for several years after the validity of his election was acknowledged by an order of the King in Council of the 11th. of June 1702, upon full investigation of the cause: and it may not be amiss to observe to your Lordships, that M. James Hammond has been twice elected a constable of the parish of S. Clement, consequently a member of the States, and that he was actually so at the time he was elected Jurat.

As to the complaint that a great number of illegal votes have been admitted in favour of the said James Hammond, contrary to the orders of 1671, 1735, and 1771, we beg leave to represent to your Lordships, that the same method was followed in this election as has invariably been practiced in all elections for Jurats or Constables, the proper parish officers attending with the rates; and every effort was used that none but those who were rated and contributed to public taxes should vote; afterwards, lest thro' the unavoidable confusion, which always attends contested elections, some error might have imperceptibly slipped in, the list of voters was again examined upon the parish rates by the members of the Royal Court who had collected the votes, when it appeared that the majority in favour of M. Hammond was thirty.

The Doleant has represented to your Lordships that, notwithstanding the unlawful measures and powerful opposition he complains of, he was on the day of election honoured with votes and support of the most respectable and independent persons of the island. In order to be able to certify your Lordships in this respect, we have again examined into it, and upon the fullest enquiry we find that the balance, as to the weight of property in the voters, is in favour of M. Hammond in a much greater proportion than the majority of votes bears, being upon the whole about one fifth part more than on the side of the said Dumaresq: this statement will, we humbly conceive, enable your Lordships to judge which of the candidates is honoured with the most respectable and independent support.

In regard to the votes complained of, as admitted on the different polls in favour of the said Hammond contrary to the orders of Council of 19th. of May 1671, 9th. of July 1735, and 28th. of March 1771, by which orders it is settled, that none shall be admitted to vote in the elections of Jurats and Constables, except such as contribute to public taxes and to the provision made for the poor, and are masters of families, by which the Doleant seems to imply that many of the voters, in favour of the said James Hammond, though taxed, want the full qualifications, not being masters of families, it must be allowed that among the voters for the said Hammond, upon a minute and diligent examination, it appears there are



Some of this description; but it cannot be said that the members of the Royal Court, who collected the votes, have been partial to him in that respect, as the said Dumaresq has, upon the different polls, by much the greater number of the same kind. We beg therefore to be further indulged by your Lordships in observing, that whatever error there may be in this, it proceeds not from any wilfulness in the members of the Royal Court, who not knowing the voters individually cannot at once discriminate those different degrees of qualification in them; and as that minute exactness is not essential on most occasions, but in those cases only, where by reason of the smallness of the majority the distinction may operate pro or con, it has been the constant practice to attend to the public rates or assessments, as shewing those who contribute to public taxes, and this on the present occasion has been studiously observed; however, on striking out from the list of voters on both sides those falling under this exception, M. Hammond, instead of the majority ascribed to him on the poll, would have one of forty-five votes at least. The result of this scrutiny is, we humbly conceive, the strongest proof for the Royal Court of the fallacy of the Petitioner's complaint in accusing us of having admitted a great number of illegal votes in favour of M. Hammond, and of having refused several good ones offered in favour of him the said Complainant, and must, we are confident, convince your Lordships of his rashness.

As to any illicit or unwarrantable measures having been used, to prejudice the said Dumaresq in this election, such as gifts and promises to some of the voters, threats to others, and open violence to many, we beg leave further to represent to your Lordships, that since, as of late years, it has been the custom of impeaching elections in this island, this has been the common language of the disputants, which has made it necessary for the Royal Court to be very cautious how to proceed upon such vague and loose assertions, when no particular facts were specified in support of them. M. Dumaresq's petition to the Court, praying that he might be admitted to take the oath of Jurat was conceived in terms, not only vague in respect to the proceedings he blamed, but also disrespectful, particularly as it reflected against one of the crown officers, after whose conclusions the Court was to pronounce judgment. To give your Lordships an idea of this petition, and of the propriety of tendering such an instrument to a Court of justice, we need only observe that it was much of the same stamp as this doleance preferred to your Lordships; but notwithstanding the contents of this petition, the Royal Court did not, as they are accused by the Doleant, refuse to take it into consideration; for it was publicly read in open Court, and he was fully heard on it, not only by his Counsel as is usual, but by himself also, and he was attended to in the course of a very unbecoming harangue, with all possible patience, and with the utmost indulgence.

Though it does not appear that this our determination could regularly fall within the precinct of appeal, as settled by the orders of the Royal Commissioners under queen Elizabeth, and by an order of the King in Council of the 8th. of november 1661, yet we could have wished that in this, as in all other cases, our proceedings were reviewed and corrected by your Lordships, if erroneous.

When appeals are allowed, it is generally where the object contended for is of a pecuniary nature; but it is not usual to allow of them in claims of right against the public: had we acted otherwise than we have done, the public would have been deprived of their judge and representative, the appeal suspending the effect of our judgment; and this might have been drawn into precedent, and by that means these offices might be kept vacant for great length of time, to the great detriment of the public, for we beg leave to observe to your Lordships, that a Jurat can have no substitute, as a constable of a parish here has in the centeniers, who are his proper substitutes and frequently act in his room, and therefore the rules which apply to the one, do not to the other. We acknowledge that there are on record two instances of appeals having been allowed in contested elections for the office of jurat, but it appears to have been when the Court have decided against the candidate, who had the acknowledged majority of legal votes, and had judged such candidate otherwise unqualified for the office.

As to his Majesty's Store-keeper and Commissary having taken an active part and strongly intermeddled, what we can offer on that head is, that those gentlemen are men respectable for their property and character in the island; and have a manifest interest in the choice of public officers, particularly the ministers of justice; but we have no reason to imagine that they have taken any other than a moderate and becoming part in this election.

We trust your Lordships will not deem it necessary for us to enter into any particular remarks on the presumption and absurdity of the Do-leant's praying to have a civil controversy examined and decided by a military officer, or to have it decided in the assembly of the States, whose judicial rights the Court is said to have usurped, though in reality this pretended usurpation is sanctified by law and by usage, and the Royal Court cannot on this occasion refrain admiring the wisdom of the constitution, which has subjected their conduct solely to your Lordships' judgment, as the best judges of the most proper means to encourage and support what is just and right, and to correct and remedy what is wrong and illegal.

In regard to the lodging the returns and the parish rates au greffe, the Court could have had no objection, on the contrary it would have been ordered as matter of course, if M. Dumaresq, after the swearing in

M. Hammond had demanded his petition to be lodged, and further examined into by the Court, but as he withheld it, all other provision thereon were rendered unnecessary.

From the foregoing state, we hope it will appear to your Lordships; that we have not been the agents of M. Hammond, as is so indecently urged, that, as returning officers, we took every method that was consistent with our characters, to have a fair poll; and as magistrates, that we judged equitably and impartially after having fully heard the petitioner by means of his Council, and by himself, and his Majesty's law officers upon the whole, on whose conclusions we founded our judgments, as is customary in public questions, and which not being conformable to the complainant's wishes, have caused, we imagine, the illiberal and groundless insinuations about his Majesty's Advocate general, who from the absence of the Procurator general was the first crown officer present.

We doubt not your Lordships will have taken notice of the very unbecoming manner, in which our conduct as magistrates is attacked by a person who would seem solicitous to become one of our assessors; and we hope your Lordships will not only think it necessary to declare your satisfaction at our conduct; but to take such measures as your own wisdom shall suggest to enforce respect and obedience to law and magistracy, and to protect the authority of his Majesty's Royal Court against ill-grounded clamours, and injurious aspersions, as has been done on other occasions by your Lordships and your predecessors.

All which is most humbly submitted to your Lordships' great wisdom.

*Jersey 15th. july 1786.*

*Phil. De Carteret, Lieutenant Bailly.*

*Frang. Marett.*

*Nic. Messervy.*

*Ch. Payn.*

*Elias Pipon.*

*Ph. Robin.*

*John Poingdestre.*



*Order which was issued upon the several disputes heard before the Committee of Council in february 1786, alluded to page 145.*

AT THE COURT AT S. JAMES'S, THE 2d. OF JUNE 1786,

P R E S E N T,

T H E K I N G ' S M O S T E X C E L L E N T M A J E S T Y,

|                        |                        |
|------------------------|------------------------|
| LORD PRIVY SEAL,       | VISCOUNT WEYMOUTH,     |
| LORD SIEWARD,          | VISCOUNT HOWE,         |
| MARQUIS OF CARMARTHEN, | VISCOUNT HINCHINBROOK, |
| LORD CHAMBERLAIN,      | LORD HERBERT,          |
| EARL OF DENBIGH,       | LORD AMHERST,          |
| EARL OF AYLESFORD,     | LORD SYDNEY,           |
| EARL OF EFFINGHAM,     | SIR GEORGE YONGE, B.   |

**W**HEREAS there was this day read at the board, a report from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 24th. of last month, in the words following, viz.

» Your Majesty having been pleased, by several orders in Council in the years 1783, and 1784, to refer to the consideration of the Committee for the affairs of Jersey and Guernsey, several representations and complaints from the Lieutenant Bailly and Jurats of the Royal Court of the island of Jersey on the one side, against the Clergy and Constables, and counter petitions and complaints of the latter against the proceedings of the former. »

» The Lords of the Committee, after much length of time, and several orders from your Majesty in Council issued intermediately, having been furnished with the answers to the said complaints from the parties complained of respectively, proceeded to examine into the said complaints and answers; and having heard the several parties by their Counsel, did by their report to your Majesty, bearing date the 31st. of july 1784, which was confirmed by your Majesty's order in Council, bearing date the 6th. of august following, settle some of the points in dispute, reserving their opinion as to others contained in the said representations, petitions and complaints; which has made it necessary for this Committee, in the course of their present proceedings, to take the same into consideration; and new disputes having arisen between the said parties, which have been carried to such an height, as to endanger the peace and safety of the island, unless the same be composed by ascertaining the just and legal rights

rights of the said several parties; and several petitions, grounded upon the said new disputes, having been presented to your Majesty, and by your Majesty referred to this Committee; their Lordships, in obedience to your Majesty's said last mentioned orders of reference, as likewise in pursuance of your Majesty's first recited orders of reference, upon the former petitions and complaints, previous to your Majesty's order in Council of the 6th. of august 1784, have proceeded to take into consideration all the points left undecided by the report of the said Committee, bearing date the 31st. of july preceeding, together with those other questions and disputes that have been made between the said parties, and have arisen since the said report of the 31st. of july 1784. "

" And this Committee, having heard all that the parties on either side had to offer by their Counsel, do find that the following questions, upon the former proceedings, were left undecided. "

*First.* " Whether your Majesty would be pleased to affirm or reject an act made on the 10th. of july 1782, appointing John Dumaresq, esquire, general deputy and agent of the said island. "

*Secondly.* " Whether the Constables and Clergy are authorized to appoint an agent, and to raise money upon the inhabitants to pay the expences that may be incurred in any disputes that may arise between them and the Royal Court. "

" For though your Majesty has already declared your opinion in part, concerning two acts or instruments of the same tenour, by declaring the same to be null and void for a formal defect, your Majesty has not yet declared your pleasure touching the subject matter of the said acts or instruments, in consequence of which, the Clergy and Constables, as soon as they assembled, after your Majesty's order declaring the said acts or instruments null and void was transmitted, did re-enact the same thing by other acts or instruments, taking care to avoid that objection to the form of the said acts or instruments, which was the ground of the repeal of the former, and the question of the subject matter of the said acts or instruments is consequently revived. "

*Thirdly.* " The Constables and Clergy had complained that the Lieutenant Bailly had upon several occasions, refused to put several propositions to the votes, which were regularly moved by members of the States, and the question, whether the Lieutenant Bailly has such a legal power, in any, or in what cases, is still undecided. "

*Fourthly.* " Complaint having been made that the Lieutenant Bailly had refused to convene the assembly of the States, when so required by the Clergy and Constables. The question, in whom the said power of convening the assembly of the States resides, and upon whose requisition he is obliged to call the same, remains undecided. "

*And fifthly.* " That the Lieutenant Bailly, having refused to adjourn the assembly of the States at the requisition of the Clergy and Constables. The general power of adjourning the assembly, and in whom the same is vested remains undecided. "

" And the Committee find, that upon the 26th. of may 1784, the old Constable of the parish of St. John being out of the island, two Centeniers of the said parish, viz. M. Peter Dallain and M. John Arthur, were presented to the States, each contending that he had a right to represent the Constable in his absence, and thereupon the Clergy and Constables admitted the said M. Arthur, who at that time was contending before the Royal Court, that he was duly elected Constable of the said parish, and he continued to sit in that capacity 'till the 22d. of december 1785, but before that time, with a view to this particular case, to wit, on the 5th. of october 1785, it was, by an act or instrument of that date, resolved, that when there should be a contested election for the office of Constable upon the death of the old Constable, or that the old Constable should happen to die pending such contest, the candidate for the said office who should have the plurality of votes, admitted by the officer appointed to collect the same, should take his seat in the States, 'till the point in contest should be decided, and this conformable to the usage observed in the Parliament of England. "

" And that accordingly the Clergy and Constables, resolved, on the 22d. of said december, that M. John Arthur should be admitted to sit in the States, and be their sitting member 'till the contest was decided, as having the majority of votes upon the poll, by virtue of the said act or instrument of the 5th. of october, whereupon the Lieutenant Bailly, with five of the Jurats, quitted the assembly of the States, and the same became dissolved. "

" The Committee further find, that on the 16th. of june 1784, prior to the above-mentioned report of the 31st. of july, the States passed an act or instrument, ordaining for the future, that the Estates should not be held with the doors shut, but that the same should be left open and free for any of the inhabitants or others your Majesty's subjects who should chuse to enter in the vestibule only. That the President and the Jurats, conceiving this act or instrument to be an innovation and a change in the manner of holding the assembly of the States, which they had no right to make without first having obtained your Majesty's consent, and considering that such a liberty, granted to the inhabitants at large would tend to promote the factions in the island, and having no other way left of stopping the immediate effects of the said act or instrument, thought fit from that time, whenever the States were convened, to absent themselves, in such numbers as to make the Clergy and Constables incompetent to act, for want of a majority of Jurats present to complete the full body of the States, and that in consequence of this measure, repeated from

time to time, the States could not be assembled, nor your Majesty's order in Council confirming the said above mentioned report of the 31st. of july 1784, be registered; nor could the Jurats be persuaded or prevailed upon to give their attendance at any assembly of the States, 'till they were required by an order of your Majesty in Council, dated the 7th. of march 1785, forthwith to attend upon the peril that might ensue for their disobedience. "

" These proceedings have produced other questions, which are proper likewise to be now decided by your Majesty. "

*First.* " How far the States have a right to lay a tax upon the inhabitants, without having your Majesty's previous consent, which they have ventured to do by the two acts or instruments of the 18th. of april and the 27th. of may 1785. "

*Secondly.* " Whether your Majesty would think fit to affirm the act or instrument of the 5th. of october 1785, by which the States, by a new law of their own, have given the seat, in any contested election, to that candidate who appears upon the return to have the greatest number of votes. "

*Thirdly.* " As the Lieutenant Bailly has in some instances refused to put questions to the votes, when regularly proposed and seconded, and in others, has thought fit to break up the assembly by his sudden departure, and in others, a number of the Jurats have thought proper to absent themselves wilfully, in consequence whereof the States have been disabled from acting when assembled; it becomes now necessary from all these recited proceedings to lay down some rule whereby the legislature may be restrained from passing acts to take effect immediately, which either trench upon your Majesty's prerogative or affect your Majesty's interest, or make any alteration in the constitution or laws of the island, or levy money upon the inhabitants, except in allowed cases, before your Majesty's pleasure can be known, and at the same time to leave the States at liberty to discuss and to present to your Majesty such laws, even upon those restrained subjects, as they may think profitable to the island and deserving your Majesty's consideration. "

" The Committee having thus stated to your Majesty the several matters of complaint, and the several questions in dispute, existing in the said island, proceed now to offer to your Majesty their opinion thereupon. "

*And first.* " Touching the act or instrument passed on the 10th. of july 1782, authorizing John Dumaresq, esquire, their general agent or deputy, to act in their behalf, by giving his care and attention to the conservation of the privileges of the island, which is recited to be necessary at that time. "

" The Committee are of opinion, that such act or instrument, tending to create a new officer unknown to the constitution, without your Ma-

jeſty's pleaſure firſt had been obtained, is null and void; and the Committee further ſubmit to your Maſteſty, that the perpetual deputation of any perſon whatſoever, when no particular buſineſs calls upon the States to appoint an agent, is not only new, but unleſs it be checked, may grow into a ſtanding office, and ſuch agent may by degrees, aſſume powers, procure ſalaries, and come at laſt to exerciſe an undue authority over your Maſteſty's ſubjects; that it cannot produce any poſſible good or benefit to your Maſteſty's ſubjects in the iſland, but may on the contrary operate as an inſtrument of faction in the hands of a deſigning or ſeditious perſon, and therefore do adviſe your Maſteſty to declare the ſaid act or inſtrument to be null and void, and to order the ſame to be eraſed from the records of the iſland. "

" With reſpect to the acts or inſtruments paſſed on the 18th. of april and 27th. of may 1785, which authorize money to be raiſed for the purpoſe of carrying on theſe ſuits againſt the Lieutenant Bailly and the Jurats. The Committee are of opinion, that, as theſe diſputes between the Clergy and Conſtables on the one ſide, and the Lieutenant Bailly and Jurats on the other, have ſprung from the different claims of right in their legiſlative capacity, the Clergy and Conſtables cannot be conſidered as the whole Legiſlature in this inſtance, becauſe, upon ſuch a conteſt, the legiſlative power is ſuſpended, and the Clergy and Conſtables can no more, by an act, furniſh an agent with money by a publick rate upon the iſland, than they can make an act to ſettle the diſputes, before your Maſteſty's pleaſure is known; and therefore the Committee are of opinion that the ſaid acts or inſtruments paſſed on the 18th. of april and 27th. of may 1785, are alſo null and void; but the Committee are nevertheleſs of opinion, that under all the circumſtances, no reſtitution ſhould be demanded of the money raiſed under the ſaid acts or inſtruments, as the ſame appears to have been expended. "

" And becauſe it is neceſſary to lay down ſome rule for the future, where the States may be empowered to raiſe money to defray the expences of their agents, the Committee think it may be adviſable for your Maſteſty to declare, that in caſes where the whole Legiſlative body is attacked or where the whole ſhall find it expedient, to appoint an agent to repreſent their common concerns to your Maſteſty, it ſhall be lawful for them to raiſe ſuch reaſonable ſums by an act of the States, as may be neceſſary for ſuch purpoſes. "

" With reſpect to the queſtion touching the Lieutenant Bailly's right to decline putting certain propoſitions to the votes, becauſe in his opinion, the States are not competent to enact laws in certain caſes where he aſſumes to be the Judge, the Committee are of opinion that ſuch a power would be arbitrary and dangerous, and has never before been attempted to be aſſumed or exerciſed; if it was permitted would in effect through the whole Legiſlative power in into the hands of one man, and the acts of the States would



be confined only to such provisions as the President should think fit to admit; and all others, though ever so wholesome or necessary, would be rejected, if the President, from motives of ambition, interest or mere caprice, should be permitted to stifle them in their birth, by refusing to let them be either considered or discussed; and the Committee therefore advise your Majesty, to disallow this claim, as novel and inconvenient. -

\* But in regard, it is necessary that those subjects which concern your Majesty's interest or prerogative, or the constitution or laws of the country, should never be passed into acts to take effect immediately, but be tendered in the first instances as propositions, praying your Majesty's permission that they may be enacted, the Committee are of opinion, that whenever the President shall conceive the proposition made, to be of the nature before described, and will enter his dissent upon that objection, such proposition shall be immediately transmitted to your Majesty to obtain your previous consent, and in the mean time and till that is obtained, shall have no effect. -

\* Upon the fourth question, in whom the power of convening the States resides, and upon whose requisition the Lieutenant Bailly is obliged to summon the same, the Committee find that the Bailly or his Lieutenant, is the only person who issues the order for convening the States, and this is done by a verbal order to certain officers called Denunciators, who are to give notice to the several members of the day they are appointed to meet; the Governor indeed may, if he thinks fit, put off the meeting for fifteen days, but no longer without special reason. At the same time, the Committee hold it clear, that the Lieutenant Bailly ought to summon the States, whenever he is so required, either by the Governor or the Jurats; it is true the States do not claim this power at present, but complain they have it not, and have gone so far as to frame an act or instrument, and lodge the same au greffe, to establish periodical meetings, and to oblige the Bailly to summon the States at the requisition of the members. If the States should be able to obtain this privilege of summoning when they please, your Majesty's prerogative in these cases, which is now exercised by the Bailly as your Majesty's executive substitute, would be totally subverted and destroyed, and therefore the Committee advise your Majesty to declare, that in this particular, the constitution ought not to be altered. -

\* Upon the fifth question, concerning the power of adjourning the States, and in whom the same is vested, the Committee find, that by the constitution of Jersey, the States are assembled for one day only, and when that is expired, the States separate, and there is an end of that meeting, without any mode of formal dissolution. But as it some times happens, that the business before the States cannot be finished upon that day, it has been usual to postpone it to another, and in that case the States meet again upon

such day without a new summon, the entries upon these occasions are always, that a certain business is *remise* to a future day, but the assembly is never said to be *adjourned*, which is a word not in the records of the island; it does not appear in any of the instances referred to, that any opposition has ever been made to the *remise* proposed, if there had, it would have appeared whether the majority of the States had ever compelled the President, against his will, to admit their power. Now indeed it is contested, and your Majesty is requested to lay down the rule. »

« It should seem that the power of breaking up or continuing should naturally be vested in the same person who has the power of convening; for these powers of summoning or putting an end to a session, are in their nature acts of the executive and not of the Legislative authority, and if so, the question of adjournment can never take place if the President rises from his place and quits the assembly ( and this the Committee understand is the only form made use of in Jersey for putting an end to the session ) so that the meeting at the end of the day is self-dissolved, unless the President shall think fit to give his consent to a *remise* for one day more, nor can there be any inconvenience in lodging this power in the President, who may with great ease summon another meeting if the business is pressing; observing at the same time, that the conduct of the President in this, as well as every other part of his office, is subject to the controul and correction of your Majesty; whereas if, on the other hand, this power should be lodged in a majority of the States, they might, by repeated adjournments, make the session perpetual; the Committee are of opinion therefore, that an assembly of the States can never be continued to a further day without the consent of the President. »

« The next question arises upon the act or instrument that passed on the 16th. of June 1784, ordaining, that for the future, the States should be held with open doors; the Committee are of opinion, that this act or instrument, being an innovation and a change in the manner of holding the assembly of the States, without previous application to your Majesty, and your Majesty's consent first had and obtained, is likewise null and void, and that such a licence and indeed invitation to all the inhabitants of the island to intermeddle with the business of the Legislature, and pass their judgement upon every measure that is discussed in that assembly, can only serve to keep alive and foment those divisions that have too much inflamed their minds already; and the Committee do therefore humbly advise your Majesty to declare this act or instrument to be null and void. »

« The last question in dispute between the parties, relates to the act or instrument passed on the 5th. of October 1785, and a resolution proposed in virtue thereof on the 22d. of December following, though not passed, because the Jurats thought fit to withdraw before the same was put to the votes. This act or instrument was made to supply the want of a Constable

where there was the vacancy in the States by the death of the Constable or where the old Constable should die pending a contest between two or more candidates in the Royal Court, upon the merits of the election. And the act or instrument proposes, that the candidate in that case who has the greater number of votes, should be the sitting member. "

" To which the Committee, after admitting that the cases mentioned in this act or instrument are not specially provided for, beg leave to observe, that it would be very unfit and inconvenient to give the temporary seat to either of the candidates; for if such candidate was espoused by the Royal Court, such a preference would be a strong temptation to the said Court to delay the decision of the merits, and would create a practice of false returns to give the favourite candidate his seat at all events, till the cause was determined, who would use every means to protract the cause, that he might keep his seat. "

" But the strongest objection to this provision is, that it encroaches upon the acknowledged and constitutional Jurisdiction of the Royal Court, by making the States judges of the return. "

" And the Committee are opinion, that this act or instrument passed the 5th. of October 1785, also falls under the same predicament with the others above-mentioned, and is null and void. And their Lordships do further submit to your Majesty, that as the oldest Centenier may in these cases be as properly substituted to represent the Constable, as when he is, by the ancient usage long practised and never blamed, suffered to serve in that capacity upon the absence or sickness of the Constable, your Majesty may be pleased to order, that whenever a vacancy shall happen by the death of the Constable, or when the old Constable shall die pending a contest between the candidates upon an election, the oldest Centenier shall be admitted to vote in the States till the new Constable, after the trial is concluded, shall be presented to the States to be sworn; at the same time, the Committee must observe, there is some ground for the complaints against the Royal Court for their delay in bringing these causes to a conclusion; and the Committee therefore humbly advise, that your Majesty would be pleased to order these causes to be dispatched with the utmost expedition, and to direct that they shall have a preference before all other civil suits when they are ready for hearing. "

" The Committee in the last place beg leave to take notice, that the feuds and animosities that have so unfortunately disturbed the island of late years, have been created by a contention for power between the States and the Royal Court, both in its judicial and legislative character, and that both sides, influenced by resistance and opposition, have been tempted to exceed the bounds of their several rights and privileges; that in particular the Lieutenant Bailly, by himself, or with the Jurats, has presumed to over-rule the States, the one, by refusing to put questions to the votes, the others, by leaving the assembly abruptly, or by absenting themselves

upon a convention of the States, on purpose to incapacitate the States from acting; all which methods of stopping or preventing the States from proceeding in the business before them, the Committee humbly advise your Majesty to declare to be illegal; and in order to prevent the inconveniences that may happen in future when a majority of any of the three branches shall be willfully absent upon any convention of the States, the Committee most humbly advise your Majesty to order, that whenever it shall appear that a majority of either of the three orders, the Jurats, Clergy or Constables have in such case contumaciously absented themselves, it shall be lawful for the remaining part of the body who are present, to fine the absent members, and to direct the same to be leyied upon their goods and chattels. =

His Majesty having taken the said report into his Royal consideration, and approving of what is therein proposed, was pleased, by and with the advice of his Privy Council, to declare the said several acts or instruments to be null and void;

And his Majesty, by and with the advice aforesaid, is hereby further pleased to order, that the regulations proposed by the said report, touching the rights severally claimed by the Bailly and Jurats on the one side, and the Clergy and Constables on the other, be duly observed and complied with and carried into effect.

And his Majesty, by and with the advice aforesaid, is hereby pleased to declare, that in cases where the whole legislative body is attacked, or where the whole shall find it expedient to appoint an agent to represent their common concerns to his Majesty, it shall be lawful for them to raise such reasonable sums by an act of the States as may be necessary for such purposes.

And his Majesty is hereby further pleased to declare and order, that whenever a vacancy shall happen, by the death of the Constable for any of the parishes in the island, or when the old Constable shall die pending a contest between the candidates upon an election, the eldest Centenier of the parish, where the vacancy shall happen, shall be admitted to sit and vote in the States ( in like manner as he now is by ancient usage, long practised and never blamed, admitted in that capacity upon the absence or sickness of the Constable, ) until the new Constable, after the trial is concluded, shall be presented to the States and sworn into office; and in order that trials of this nature may be decided with the utmost expedition, his Majesty is further pleased to order, that such causes shall have a preference before all other civil suits when they are ready for hearing.

And lastly, his Majesty, with the advice aforesaid is hereby pleased to declare, that the refusal of the Lieutenant Bailly to put to the votes, any questions, moved and seconded in the assembly of the States, or the withdrawing of the Jurats from the said assembly, for the purpose of stopping or preventing the States from proceeding in the business before them, is illegal; and his Majesty doth hereby order, that whenever it shall appear,

pear, that a majority of either of the three orders, the Jurats, Clergy and Constables, have wilfully and contumaciously absented themselves, it shall be lawfull for the remaining part of the body, who are present, to fine the absent members and to direct the same to be levied upon their goods and chattels.

And to the end that none may pretend ignorance of his Majesty's pleasure hereby signified, the Bailly and Jurats are to cause this, his Majesty's order, to be forthwith registered and published, in due form, in the said island.

And the Governor, Lieutenant Governor, or Commander in Chief, for the time being, the Bailly and Jurats of the Royal Court, and all others the members of the States of the island of Jersey, and all others whom it may concern, are to take notice and yield due obedience, to his Majesty's pleasure hereby signified.

Signed, *Staph. Cottrell.*

15 août 1786.

LES États ayant entendu le rapport du Comité appointé pour l'examen des comptes publics, quel rapport fut logé au greffe le 19 du mois dernier; il a paru aux États que ledit Comité, après avoir examiné le compte du Trésorier des États, a passé les différens articles dudit compte & référé à la considération des États l'article payé à Jean Dumaresq, écuyer, qui monte à la somme de deux cents soixante-six livres quatre sous. Les États ayant aujourd'hui examiné tout le contenu dudit article, & considérant que le montant en a été payé par le Trésorier audit sieur Dumaresq, en qualité d'avocat de la Cour Royale, pour plaider dans les actions qui étoient faites audit Trésorier par trois particuliers, & pour défendre la cause commune du corps des États, devant la Cour, sur les arrêts qui avoient été faits par lesdits trois particuliers de tout le produit du fond public; considérant de plus, que les fonctions des États étoient suspendues dans le temps que ces arrêts furent faits, & que conséquemment il n'étoit pas au pouvoir du Trésorier de consulter ni prendre l'avis des États sur le sujet; & le susdit payment paroissant d'ailleurs raisonnable, les États ont approuvé dudit article, & parant le compte dudit Trésorier demeure en son entier passé & approuvé.

*Dissent of the Lieutenant Bailly on the foregoing act.*

Je déclare mon dissentiment sur l'acte ci-dessus.

1. Parce que l'article du paiement de deux cents soixante-six livres quatre sous, argent d'ordre, à Jean Dumaresq, écuyer, a été approuvé avec précipitation, la pluralité des membres de cette assemblée ayant refusé que

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le rapport du Comité & le compte en question soient logés au greffe ; selon comme il est prescrit par l'ordre de sa Majesté en Conseil du 28 mars 1771.

2. Parce que ledit Trésorier a agi de son propre chef, sans y être autorisé & même sans consulter & prendre les avis des Officiers du roi, qui d'office ont toujours patronisé les causes du public.

3. Parce que c'étoit une attaque marquée contre la constitution & l'autorité du Prince, d'engager un avocat pour plaider contre la compétence de la Cour Royale, reconnue depuis peu, même dans le cas en question, par un ordre de sa Majesté en Conseil, du 2 juin 1786.

4. Parce qu'aucun individu ne peut de son chef avoir aucun droit de salarier un avocat avec l'argent du public, sans blesser la constitution, & que n'ayant pas une majorité des membres du corps des jurés, ni une majorité des membres du corps des connétables qui y consentent, le paiement en question est une infraction de l'ordre de sa Majesté en Conseil, du 2 juin 1786, ou l'approbation de tout le corps des États est requis comme un point indispensablement nécessaire.

5. Parce que plusieurs connétables & représentans du peuple ayant demandé du temps pour consulter leurs constituans sur un objet qui paroît entièrement nouveau, on leur a refusé, & cela en contravention à l'ordre de sa Majesté en Conseil, du 28 mars 1771.

Le Président ayant entré son dissent à l'acte ci-dessus, les États ont ordonné, conformément à l'ordre de sa Majesté en Conseil, en date du 2 juin 1786, que le tout sera immédiatement transmis, par le Greffier, à sa très-excellente Majesté en Conseil, afin qu'il en soit ordonné : & de plus, que le Greffier gardera une copie authentique, tant dudit acte que dudit dissent, pour que les différens membres des États y puissent avoir recours.

*Another dissent.*

Le Président de l'assemblée des États n'étant responsable de sa conduite à d'autres qu'à sa Majesté en Conseil, croit qu'il est son devoir indispensable de transmettre, lui-même, ses raisons d'objections à aucun acte passé dans cette assemblée, & qu'il ne peut être privé de ce droit sans porter atteinte aux prérogatives de sa Majesté ; partant il entre son dissentiment sur l'ajoutement d'acte ci-dessus pour transmettre le tout à sa Majesté en Conseil par la première occasion.



MY LORDS,

**W** E the undersigned members, forming a majority of the States of this island, sensible how much of your Lordships' precious time and truth

paternal care have already been employed in promoting the prosperity and tranquillity of this country, beg leave to express our concern that any new matter should so soon demand your attention.

The use however, which the President has made, of the power of dissenting, vested in him by the late order of his Majesty in Council of the 2d. of june 1786, appears to us so unjustifiable, and the reasons on which he grounds his dissent so devoid of foundation, that we are under the necessity of troubling your Lordships with the following observations.

1st. article of the dissent.

This article accuses the States of precipitancy in approving the payment of John Dumaresq, esquire's, account, and refusing to lodge au greffe the report of the Committee and the account in question.

There needs no other answer to this article than the said report and account enclosed, authenticated by the Greffier, by which your Lordships will see, that the said report and account were lodged au greffe almost a fortnight beyond the time required by his Majesty's order in Council of the 28th. of march 1771, that is, from the 21st. of july to the 15th. of august, a period of time sufficiently long to remove every suspicion of precipitancy. In addition to which we beg leave to observe that, the account of the Treasurer, in which is contained this article of payment, had been produced and examined in the States on the 15th. of july, as appears by the act of the States enclosed, which expressly mentions, that the consideration of this payment with others is *remis* to another day, and a Committee is, by the same act, directed to examine into these matters previous to the decision of the States. The Committee in consequence met on the 19th. of july, and returned the article to be disposed of by the States without any disapprobation on their part, or pointing out any error.

2d. article of the dissent.

This article states, that the Treasurer acted of his own accord without being properly authorised, and without consulting and advising with the king's officers, who have always officially patronised the causes of the publick.

That the Treasurer acted of himself is readily admitted. He could not do otherwise. The functions of the States being then suspended, it was not in his power to procure their directions. This objection does not seem to have appeared of weight to his Majesty in Council, who virtually considers the said Treasurer as a legal defendant on the part of the States, by directing the Royal Court, in an order of the 2d. june 1786, to pass a definitive sentence respecting the attachment of the impot, and allow appeal to either party, if required. We conceive it would have been highly reprehensible in the Treasurer not to have taken every legal method ( by

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retaining a Counsel), of repelling an attack that had been made on a publick fund committed to his charge by the States, and of preventing, if possible, any application of it, which had not the sanction of that body, in whose management alone it is vested by an order of his Majesty in Council bearing date the 2d. of december 1779. We apprehend further, that the Treasurer had the same right, which every other citizen has, of selecting his Counsel. To have employed the king's officers in this business, who have taken a decided part against the States, and one of whom, namely, the Procureur, is brother in law to one of those who laid the attachment, would have been a manifest dereliction of the interests of that assembly. Nor would any expence have been thereby saved to the public as the king's officers take fees in civil suits which they undertake, though of a public nature, and have, in a recent instance, received fees of the States, when employed by that body.

This article calls it a visible attack on the constitution and the authority of the King, to employ an advocate to plead a cause against the competency of the Court, lately recognised, even in the case in question, by an order of his Majesty in Council of the 2d. of june 1786.

The incompetency of the Court was a plea certainly urged by the Treasurer's advocate, with respect to its disposing of any part of a fund, entrusted by his Majesty to the management of the States only. But this question of competency, was submitted with deference by the advocate to the judgement of the Royal Court, and when the Court had judged themselves competent, he then pleaded on the merits of the attachment without any further objections on that head. That the Court itself however was not clear with regard to its competency in that affair appears by its referring the whole to his Majesty in Council, without venturing to pass a definitive sentence. How far this competency is admitted by the order of the 2d. of june 1786, we do not presume to judge; but if it is at all admitted, it was not till after the hearing of the cause before the Royal Court, and therefore no violation of the constitution or of the authority of the Prince can justly be charged on the Treasurer. We conceive it to be allowable in an advocate to urge with decency every argument that may be favourable to his client, and even to object to the competency of a Court before whom he speaks, except indeed such competency has been recognised by a superior Tribunal.

#### 4th. article of the dissent.

This article alleges, that no individual can, of his own mere motion, have any right to see an advocate with the public money without wounding the constitution; and that, as there was not a majority of the Jurats nor a majority of the Constables who would consent to it, the payment in question is a violation of the order of his Majesty in Council of the 2d. of june 1786, where an approbation of the whole body of the States is re-



quired as a thing indispensably necessary.

We apprehend the Treasurer cannot be looked upon as a mere individual, but as the representative, in this particular instance and predicament, of the legislative body, which was attacked by three persons, who laid an attachment on the whole of their public fund. We conceive it is by no means requisite that a majority of each of the three orders should consent to any act, before it has force of law. The President seems to wish to revive a question, which was decided after a solemn hearing by his Majesty's order in council of the 6th. of august 1784, in which it is positively declared " that in the majority of the three orders collectively, resides the power of making provisional laws and ordinances, and of doing all business appertaining to them as States. " After a most diligent perusal of his Majesty's order in Council of the 2d. of june 1786, we cannot find the least alteration of the above-mentioned decision, and no part of it is therefore transgressed by the States in this instance.

#### 5th. article of the dissent.

This last article states, that several Constables and representatives of the people having asked time to consult their constituents on an object which appeared entirely new, had been refused, contrary to the order of his Majesty in Council of the 28th. of march 1771.

It is admitted that four Constables and one Centenier asked to consult their parishes. It is observable however, that ample time was allowed them for that purpose, as the said report of the Committee and the account had been lodged au greffe ever since the 21st. of july. The order of his Majesty in Council of the 28th. of march 1771 says, " that all propositions shall be lodged au greffe for fifteen days, that every member of the States may have time to consider thereof, and the Constables to consult their constituents, if they judge it necessary. " A much greater space of time elapsed than is required by the law, before the said account passed, as has been observed; and if these four Constables and one Centenier did not consult their parishes during that interval, it may fairly be inferred, that either they did not think it necessary or that they wished to delay unnecessarily the liquidation of the public accounts. If, upon the passing of the public accounts, after they have been lodged au greffe the usual time, and have moreover undergone the examination of a Committee, the Constables were allowed to stop their liquidation and payment, upon every article, under pretence of consulting their parishes, no public accounts could ever be settled. It is to be observed at the same time, that the majority of the Constables did not disapprove of the account, two of that supposed majority differing in opinion only as to the mode of passing it.

Such, my Lords, are our observations on the various articles of the President's dissent upon the payment of an account amounting to about se-

twenty pounds sterling which we humbly submit to your consideration.

The States, in consequence of this dissent, directed the whole to be immediately transmitted to his Majesty in Council, in compliance with his Majesty's order of the 2d. of June 1786.

This last direction of the States, which we looked upon as a thing of course, was warmly opposed by their President, who entered his dissent on that also; and on this ground, that as he is responsible for his conduct to his Majesty in Council only, it is his indispensable duty to transmit himself his reasons for objecting to an act passed in that assembly, and that he cannot be deprived of those rights without its affecting the prerogatives of his Majesty.

We beg leave to observe, that in transmitting their acts and transactions to England, the States have invariably adopted two different methods. The first and most usual, has been by their Clerk or Greffier, the second by means of the Lieutenant Governor or others, when some particular occasion so requires. But when the latter is the case, the person desired to transmit the acts of the States is specially authorized by an act of that body for that purpose, and no one ever took that office upon himself, without the consent of the States. We find no good reason for departing from our ancient custom in this particular, and it is plain his Majesty does not mean to change it in his order in Council of the 2d. of June 1786, where it is said that when "the President will enter his dissent upon that" objection, such proposition shall be immediately transmitted to his Majesty to obtain his previous consent. "No particular person is pointed out for transmitting the acts of the States, and therefore we humbly conceive the ancient usage is to be followed.

Upon all these considerations, which we have taken the liberty to suggest, we humbly trust, that the conduct of the States will meet with the approbation of his Majesty and of the right honourable the Lords of the Council: that his Majesty will be graciously pleased to affirm the act which approves of the payment of John Dumaesq'esquire's, account: that every act and transactions of the States shall be transmitted, either by the said Greffier or by some person expressly authorized by the States, and that, in conformity to ancient and invariable usage; and finally that, the President be restricted in the use of his dissent within the bounds prescribed by, his Majesty's said order in Council of the 2d. of June 1786.

We have the honour to be, &c. &c.

21st. august 1786. *Edward Le Maistre, . . .*  
*Philip Le Hardy, . . .* } *jurats.*  
*James Hemery, . . .*  
*Francis Le Breton, dean of Jersey, and rector of St. Saviour's.*  
*Richard Le Feuvre, rector of S. Peter's.*

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Francis Valpy, rector of S. Mary's.  
A. Biffon, rector of S. Laurens'.  
Fr. Le Couteur, rector of St. Martin's.  
G. Bertram, rector of S. Clements'.  
Th. Sivret, rector of S. John's.  
Ph. De la Garde, rector of S. Brelade's.  
Ed. Dupré, rector of S. Helier's.  
Ch. Marinel, constable of St. Helier's.  
James Pipon, constable of St. Brelade's.  
John Dumaresq, constable of St. Peter's.  
Ph. Collas, constable of S. Martin's.  
Fr. Ricard, constable of S. Ouen's.  
Ph. Marett, centenier of S. Saviour's.  
Fr. Amy, constable of Grouville.

The right honourable  
the Lord President, &c. &c. &c.

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M. Dumaresq of S. Peter's had announced to the States, in the month of june 1786, his intention of submitting to them a plan for restoring the trial by jury in Jersey; this he laid before the States on the 12th. of august; and after the plan had undergone the examination of a Committee, it was finally approved of by the States, on the 4th. of october 1786, as appears by the following act.

AUX ÉTATS DE L'ISLE DE JERSEY.

L'AN mil sept cent quatre-vingt-six, le quatrième jour d'octobre, la proposition qui fut logée au greffe le 12 d'août dernier par Jean Dumaresq, écuyer, connétable de la paroisse de S. Pierre, touchant le rétablissement des enquêtes dans le pays, en matières civiles, mixtes & criminelles, a été lue ce jour pour la troisième fois dans les États, avec les changemens & corrections que le Comité y a apportés, de même que le rapport dudit Comité, leurs observations & les pièces qu'ils ont extraites pour l'information des États sur ce sujet. Plusieurs requêtes par écrit signées d'un grand nombre des principaux & autres habitants des paroisses respectivement, de S. Hélier, S. Ouen, Grouville, S. Martin, S. Jean, Ste. Marie, S. Sauveur & S. Clément, demandant le rétablissement des enquêtes ont été aussi produites & entendues avec les actes d'assemblées paroissiales de la plupart desdites paroisses, tendant aux mêmes fins. Chacun des membres de l'assemblée ayant été entendu en ce qu'il avoit à offrir, soit pour ou contre

la question, & le sujet ayant enfin été pleinement débattu & sérieusement examiné; les États, après longue & mûre délibération, ont approuvé ladite proposition dans l'état qu'elle est aujourd'hui devant l'assemblée, & ont ordonné qu'une copie authentique en sera présentement signée du Greffier & ensuite mise entre les mains de M. le Lieutenant Gouverneur, lequel est requis, par les États, de la transmettre à sa très-excellente Majesté en Conseil, afin d'obtenir son approbation Royale & la ratification des articles proposés, ou tel autre remède que sa Majesté jugera convenable & propre. Les États ont en même temps autorisé Ed. Le Maître, écuyer, justicier, le révérend docteur Dupré, recteur de S. Hélier, & Jean Dumaresq, écuyer, connétable de la paroisse de S. Pierre, de faire authentifier, sous le sceau de l'île, tant ce présent acte que les actes qui ont été aujourd'hui lus aux États, & de faire recueil des autres pièces qui ont été produites, de même que de tous autres papiers & évidences qui pourront tendre à soutenir & appuyer ladite proposition devant sa très-excellente Majesté en Conseil, afin de remettre le tout entre les mains dudit sieur Gouverneur, pour l'effet susdit.

Ph. De Carteret, greffier.



AUX ÉTATS DE L'ISLE DE JERSEY.

L'AN mil sept cent quatre-vingt-six, le vingt-deuxième jour du mois de décembre; sur ce qu'il y eut un procès criminel intenté le 25 d'octobre dernier, contre M. François Amy, de la paroisse de Grouville, revêtu de la charge de connétable, & contre Philippe Baudains, de la paroisse de S. Martin, sur une accusation, par lettre anonyme, de s'être rendus coupables d'avoir transporté, aidé ou favorisé le transport de laine hors de cette île; qu'elle accusation, après des perquisitions redoublées, a été trouvée dénuée de tout fondement; cet événement considéré, & vu que les malicieux trouveroient à chaque instant des moyens d'inquiéter les objets de leurs ressentimens sans risquer des recherches, si le citoyen étoit sujet à de pareilles poursuites; dans la vue d'arrêter ces maux & de calmer les alarmes qui ont été excitées par l'avant-dit procès, & afin d'assurer le repos & la tranquillité d'un chacun sur un sujet si intéressant, les États ont aujourd'hui décidé qu'à l'avenir nulle poursuite ne sera instituée contre personne quelconque sur des accusations anonymes. Et les États très-humblement supplient sa très-excellente Majesté de vouloir bien accorder sa sanction à cet acte, afin de le rendre permanent, pour quel effet le Greffier est dirigé dans transmettre copie authentique au Clerc in-attendance du Conseil.

Ph. De Carteret, greffier.

TQ.

What gave rise to the foregoing act was a prosecution entered by the Procureur du roi against M. Amy, representative of the parish of Grouville, and M. Philip Baudains, on a charge of exporting wool out of Jersey. The Procureur declared to the Court that the charge was entirely grounded on an anonymous letter, which he had picked up in the court yard of his house; that previous to his taking any steps in this business, he had privately consulted the Court, who had directed him to apprehend the above-mentioned gentlemen, messieurs Amy and Baudains. He then produced the letter in question, and the Court ordered it to be lodged au greffe. Witnesses were heard, and the futility and malice of the charge appeared in the most glaring colours. These two men are of the party who favour the following proposition for the re-establishment of juries.

P R O P O S I T I O N

AGREED UPON BY THE STATES FOR THE RE-ESTABLISHMENT OF THE TRIAL
BY JURY IN CIVIL, MIXED AND CRIMINAL CASES, AND TRANSMIT-
TED TO HIS MAJESTY FOR HIS ROYAL APPROBATION.

AUX ÉTATS DE L'ISLE DE JERSEY.

LES États ayant entré en considération des défauts & abus qui se trouvent dans les lois & dans la constitution de l'île, dans le système de la juridiction, & dans la manière de procéder en matières civiles & criminelles; après avoir sérieusement examiné ces sujets importants, considéré l'ancien usage du pays, la coutume de Normandie & plusieurs préjugés, tant vieux que modernes; entendu les plaintes & requêtes qui leur ont été adressées par les assemblées paroissiales sur le sujet, & après avoir murement délibéré & réfléchi sur le tout, ont trouvé que les maux qui existent dans le pays, & qui ont, en différens temps, excité les murmures & troublé le repos des habitans de l'île de Jersey, procèdent, premièrement, du défaut de lois fixes & certaines, tant en matières civiles que mixtes & criminelles; & secondement, du système defectueux & abusif de l'administration de la justice.

Il paroît, & l'expérience de plusieurs années l'a démontré, que le recueil de lois qui fut fait en l'année 1771, est des plus defectueux, & contient des ordonnances équivoques & impraticables; mais afin de porter une attention plus exacte aux points principaux & qui exigent une réformation immédiate, les États ont cru devoir se borner, pour le présent, à la représentation suivante :

Premièrement. Par rapport aux procès criminels, en accusation pour crime de haute trahison, il n'est point dans l'île de pouvoir compétent pour punir ou décharger l'accusé, ni même pour examiner des témoins sur l'accusation; le Gouverneur & deux des Jurés ont, en ce cas, le droit de saisir & emprisonner seulement, & non de procéder plus outre.

La poursuite des autres délits, la manière de traiter les procès criminels,

B. b.

L'emprisonnement des accusés, le tribunal qui les doit juger, & les peines que les coupables doivent subir, sont des sujets sur lesquels il n'est aucune loi ni règle certaine dans le pays; mais qui dépendent de la volonté & de la discrétion de ceux qui les traitent, & qui varient selon les circonstances & les temps. Il arrive qu'un prisonnier est jugé par le chef Magistrat & deux jurés seulement, quelquefois par tous les jurés, & quelquefois par le Connétable & les douze officiers de la paroisse du prisonnier, & ensuite par l'enquête du pays composée de vingt-quatre hommes.

Le chef Magistrat & les Jurés, après que les témoins sont entendus & la poursuite criminelle finie, déchargent ou condamnent le prisonnier, de leur chef, si c'est leur volonté. Ils n'appellent le Connétable & les officiers pour l'enditement, que lorsqu'ils le jugent à propos, ou qu'ils ne trouvent pas le cas suffisamment clair.

Il est arrivé, & les exemples ci-joints, tirés des registres, en font foi, que la Cour royale, dans un temps plus éloigné, a puni par amende, emprisonnement & même de peine corporelle, des accusés, quoique déchargés par l'enquête.

Dans d'autres temps la Cour royale a renvoyé en prison des accusés déchargés par l'enquête, & permis plus outre information sur le même fait. D'autres prisonniers enfin ont été contraints de donner caution, & d'autres ont été mis aux frais de la procédure après la décharge de l'enquête. On trouve également des exemples, comment les gens de l'enditement & de l'enquête ont été mis à l'amende & emprisonnés pour avoir déchargé un prisonnier de l'accusation; il en est d'autres, comment l'enquête est renvoyée à un autre jour pour se mieux informer. D'autres préjugés font voir, que des personnes accusées & enditées pour crime capital, ont été élargies après an & jour de prison, d'autant qu'ils ne vouloient se soumettre ni à l'enquête ni à la Cour royale. D'autres criminels, qui ne vouloient se soumettre ni à l'un ni à l'autre tribunal, ont été bannis du pays. Il se trouve un très-grand nombre de jugemens, depuis quelques années, où des accusés pour vols & larcins, de plusieurs espèces, ont été reçus par la Cour royale à vider le pays, pour éviter plus outre poursuites; & il s'en trouve d'autres également récents, comment des personnes saisies & constituées prisonniers, sous accusation de vols & autres délits, ont été admises à caution par la Cour royale, & laissées ensuite sans plus outre examen, recherche, ni poursuite.

Les prisonniers sont menés de la prison à la Cour & renvoyés de la Cour à la prison, aussi souvent & pour aussi long-temps que le Procureur du roi demande d'informer plus outre; ce qui est fait à différentes reprises, & dure souvent pour un temps considérable. Et il est arrivé depuis un an, qu'une poursuite criminelle, au sujet du transport de laine, dans laquelle plusieurs témoins avoient été entendus, fut renouvelée par acte de la Cour royale, d'autant que la procédure étoit sur le point de

périmier, faute de poursuite dans l'an & jour.

Les témoins sont examinés & entendus en présence du chef Magistrat & de deux Jurés, leur dépositions sont mises en écrit & lues aux autres Jurés, & aux Connétables & officiers pour l'enditement, lorsque ces derniers y sont appelés, sans qu'aucune évidence de vive voix leur soit produite non plus qu'à l'enquête.

Le Connétable & les officiers, lorsqu'ils sont appelés à faire rapport sur une accusation, sont questionnés d'une manière vague & en secret par le chef Magistrat; aucun serment ne leur est administré pour l'occasion. Ils passent par-devant le chef Magistrat un à un, d'une manière mystérieuse; les gens d'enquête sont par serment & leur rapport, qui décide en dernier ressort du cas du prisonnier, est conduit de la même façon.

Les gens de l'enquête sont nommés par le Procureur du roi, qui est obligé d'office de faire la poursuite du crime, & il n'en est appelé qu'un nombre à-peu-près suffisant pour l'enquête, ou tout au plus trois au-delà du nombre, afin de suppléer à l'indisposition ou absence des autres; mais le droit d'exception péremptoire ou challenge n'appartient point aux accusés.

Il a été déjà dit, qu'il n'est pas à l'option du prisonnier d'avoir le rapport du Connétable & des officiers sur son accusation; mais qu'il dépend de la Cour royale; cependant le même usage accorde à l'accusé le droit d'appeler l'enquête, s'il est endité par le Connétable & les officiers, sans toutefois l'y contraindre; & dans le cas qu'un prisonnier, après être endité criminellement, ne se soumet point au jugement de la Cour, & s'obstine à refuser l'enquête, il est renvoyé en prison pour un an & un jour, sans procéder plus outre vers lui, même pour un crime capital. Il est aussi quelque exemple du contraire.

Le sort d'un criminel, après conviction, dépend dans presque tous les cas, de la merci & de la discrétion de la Cour royale. Il n'est point de lois criminelles dans le pays. Tantôt la coutume de Normandie est citée pour conduire la Cour dans son jugement; quelquefois les commentateurs sur la loi d'Angleterre; mais le plus souvent divers préjugés pris dans les rôles, différant la plupart les uns des autres, quelquefois directement opposés, & en général tirés d'un siècle éloigné, rempli de superstition & d'ignorance.

Les fautes qui, selon leur nature, pourroient être admises à caution, ne sont point distinguées des délits qui doivent en être exclus. Les personnes saisies pour des délits, ou en conséquence d'une action purement civile ou mixte, sont presque dans tous les cas, à la merci d'un Sergent de justice, qui n'a d'autre règle à suivre, en fait de caution, que sa bonne ou mauvaise volonté.

L'acte de Parlement, connu sous le nom du *habeas corpus act*, qui protège les sujets de sa Majesté en Angleterre, contre les emprisonnements il-

légals, n'a point d'effet dans ce pays, & n'y a jamais été enregistré ni exercé; quoique par l'onzième article dudit acte il paroît une intention évidente d'en étendre les privilèges à l'île de Jersey.

Les fautes légères sont quelquefois punies d'avance par un long emprisonnement, & ceux qui commettent des délits plus graves sont en d'autres temps admis à caution, ou reçus par la Cour à se retirer du pays, pour éviter une poursuite criminelle.

Secondement. Touchant l'administration de la justice & le système de juridiction en matières civiles.

Les États, après avoir fait recherche dans l'ancien usage & dans les registres du pays, après avoir examiné plusieurs pièces & autorités sur la pratique, & le Vieux Coutumier de Normandie, qui est la base des lois & coutumes municipales de l'île, ont trouvé que le jugement par enquête en matières civiles, mixtes & criminelles, est un ancien droit & privilège appartenant aux habitans de l'île de Jersey; que l'origine des enquêtes est d'une antiquité des plus reculée; que leurs jugemens ont autrefois servi dans les affaires de difficulté & de grande importance, dont il est plusieurs exemples. Par le Vieux Coutumier il paroît que les jugemens par enquête doivent décider de presque toutes espèces de disputes & contestations, comme sont, douaire de femme, mariage encombré, empêchemens de succession, tenures d'héritages, revocations des faits de tuteurs, dons que pères font à leurs enfans, clameurs de haro, des vues, de meurtre, déroberie, de trahison au Duc, de mehaing, d'assault, de trêves frainctes, de querelles & contens, de forfait à veuves, femmes ou orphelins, de recepteurs de criminels, de querelles de possession, d'immeubles & de meubles au-delà de dix sols en valeur, de querelle fiefiale, de nouvelle dessaisine, de payement de rente, de patronage d'église, des rentes & services que seigneurs demandent à leurs tenans, de querelle de fief vendu, & de plusieurs autres sujets en dispute.

On trouve par l'Extente qui fut formée en l'année 1331, que l'étendue & l'appréciation des revenus & services dus à sa Majesté, dans les différentes paroisses de l'île, furent fixées par des enquêtes tirées des douze paroisses respectivement, & composées de douze hommes chacune.

Une autre Extente des revenus du Roi fut faite en l'année 1668, de la même manière par des enquêtes, en conséquence d'un ordre du Roi en Conseil, daté du 22 mars 1660.

En l'année 1661, un Terrier fut réglé par des enquêtes de douze hommes chacune, pour distinguer les dixmes dues à sa Majesté d'avec celles qui sont dues aux Recteurs des paroisses.

Un autre Terrier, pour le même sujet, fut fixé par une enquête, sur une ordonnance du Conseil, datée du 23 février 1703.

Les devoirs & les services entre les seigneurs des fiefs de l'île & leurs tenans, ont été la plupart fixés & reconnus par des enquêtes, de même que le bornement de différens fiefs.

Il se trouve dans les rôles de la Cour & sur des pièces authentiques, plus anciennes que les rôles mêmes, plusieurs jugemens par enquête en matières civiles & mixtes, telles que nouvelle dessaisine, appréciations d'héritages, clameurs de haro, & autres actions où les Officiers du roi sont parties jointes; bornemens de terres, disputes en partages d'héritage, demandes de services, & plusieurs autres droits & prétentions en dispute.

Il est vrai que l'usage des enquêtes a diminué considérablement depuis un certain nombre d'années; il est tombé graduellement à mesure que la Cour royale a étendu son autorité; il a varié selon les circonstances & les temps; & cet admirable système de juridiction, ce précieux privilège, est dans le temps présent presque entièrement aboli, ou rendu si incertain, que ce n'est plus un privilège aux habitans.

Il paroît cependant encore dans la pratique d'aujourd'hui, des traces visibles & marquées de cet ancien privilège.

Telles sont les Vues de justice sur les contestations qui arrivent au sujet de la propriété des biens en terres, maisons ou fiefs; alors douze hommes du voisiné, non reprochés, sont appelés & sermentés devant la Cour; ils examinent les lieux en difficulté; ils ont la communication des évidences; entendent les parties & font leur rapport sur le fait & sur le droit. Dans certains temps la Cour royale admet des témoins dans la Vue, dans d'autres elle les refuse; quelquefois les parties nomment les voyeurs ou gens d'enquête; tantôt le Vicomte les appelle sans la participation des parties; le tout suivant la discrétion de la Cour.

Telles sont encore les visites faites, en première instance, par le Vicomte, des objets en contestation; alors six hommes, non reprochés, sont appelés pour experts, & donnent leur rapport par serment, sur le fait en dispute; cette visite du Vicomte est un pas préliminaire à la Vue de justice. De la sentence d'une Vue de justice il y a appel à une grande Vue, dans laquelle vingt-quatre hommes sont appelés comme voyeurs. Et de la grande Vue de justice il y a appel à sa Majesté en Conseil. Tels sont les rapports d'experts, appelés & sermentés par le Vicomte, sur des contestations de différentes espèces, soit qu'il s'agisse de juger de dommages prétendus, de fixer le prix des objets en dispute, estimer la valeur d'améliorations, ou établir la vérité des prétentions réciproques des parties. Un pareil usage s'observe dans la Cour Ecclésiastique, lorsque le Doyen fait la visite des maisons presbytérales sur le décès du dernier incumbent.

Telles sont encore les visites de chemins publics, alors le Connétable & douze hommes sermentés de la paroisse où la visite se fait, dénoncent les empêchemens & usurpations des particuliers sur les chemins du Roi,

& décident entre particuliers sur le droit.

Cependant dans tous les cas cités ci-dessus, la Cour royale se réserve un pouvoir arbitraire, soit pour accorder une enquête & même une vue de justice, ou pour les refuser; soit pour introduire dans la procédure des experts & voyeurs, ou pour procéder sans eux; pour déférer à leur rapport, ou pour le tempérer ou changer; & aujourd'hui le plus souvent il arrive que la Cour, en variant la forme de procéder dans la première instance, se dispense d'appeler des voyeurs, & appointe un Transport de justice au lieu de la Vue.

La Cour royale, dans d'autres cas, use d'un pouvoir également arbitraire, & se croit en droit d'exercer sa discrétion sur des points qui devroient être fixes & uniformes, dont il est plusieurs exemples : la Cour a refusé, dans plusieurs instances, appel à sa Majesté, sur des contestations de très-grande importance aux parties, & en valeur beaucoup au-delà de celle fixée par la loi.

La Cour n'admet point d'appel dans les causes où le Procureur du roi est joint à une des parties, parce que ce sont des causes mixtes; & ces causes, qui sont souvent très-intéressantes à l'honneur & aux biens des particuliers, sont jugées par le chef Magistrat & deux Jurés seulement, sans appel au corps de la Cour, non plus qu'à sa Majesté.

La Cour, en différens temps & souvent, a refusé de faire acte de ses résolutions, quoique l'ordre de sa Majesté en Conseil, du 26 mars 1729, l'ordonne expressément, ce qui prive les parties des moyens d'appel à sa Majesté, ou de faire valoir leurs objections sur telles résolutions.

La Cour admet quelquefois les cousins germains & domestiques des parties à passer comme témoins dans des causes civiles & mixtes, quelquefois elle les rejette. Quelquefois les cousins germains sont admis comme juges, & quelquefois ils sont dispensés de juger.

La Cour se dispense de se conformer à la loi écrite dans ses sentences, & même a prononcé des jugemens en opposition directe à la loi.

La Cour a imposé des amendes sévères & excessives sur les habitans pour des fautes légères & triviales; & dans d'autres temps, la Cour, après avoir prononcé une peine corporelle, l'a changée en une peine pécuniaire.

La Cour a jugé & même censuré & condamné les personnes sans les entendre; & a refusé l'admission de plusieurs plaintes & remontrances sur des sujets graves & importants.

La Cour interrompt toute administration de la justice, dans le temps le plus pressant du terme, lorsque la mort arrive à un de son corps, ou à l'épouse de l'un d'eux; & il est récemment arrivé qu'un étranger a été continué prisonnier huit jours au-delà de sa sentence, d'autant que la femme du Greffier étoit décédée.

La Cour exempte les membres de son corps, les veuves des jurés & même les avocats de la Cour, de contribuer aux services qu'ils doivent à sa Majesté, & en surchargeant les autres habitans de l'île.

La Cour a remis de son chef les tenues des différentes Cours, sans nécessité & contraire à l'intérêt du public.

La Cour, dans un temps, reçoit les rapports des officiers de police comme des preuves suffisantes d'un fait, sans autre évidence; dans d'autres temps, la Cour admet des témoins à les confirmer ou contredire.

La Cour apporte les défauts de qualification qu'elle juge à propos aux officiers de la police qui sont choisis par le peuple, & rejette leur élection à son gré sans égard à l'usage.

La Cour, après avoir consulté & entendu l'opinion des assemblées paroissiales, pour la coupe des vraics qui se fait chaque année, en a disposé contraire aux sentimens du peuple.

La Cour apporte différens obstacles & permet des délais frivoles & inutiles dans la décision de certaines causes; ce qui prolonge tellement les procédures, que les uns se fatiguent par la perte de leur temps & abandonnent leurs poursuites; les autres sont conduits à des frais exorbitans & ruineux. Le cas des témoins est également à plaindre; ils suivent la Cour pour plusieurs termes, pour une même cause & sans récompense.

Il a été permis au Geolier de continuer gardien de la prison, pendant le cours d'un terme, sans examiner sa conduite, après qu'il avoit, par sa négligence ou connivance, laissé échapper un prisonnier, detenu sous accusation de meurtre: & la Cour, ayant suspendu le même Geolier pour le fait susdit, lui permet cependant encore aujourd'hui publiquement de faire les fonctions de geolier, & il est huissier de la Cour.

Le chef Magistrat & les Jurés se nomment réciproquement les uns les autres, pour recueillir les suffrages du peuple dans les élections des jurés, & pour en faire le rapport. Plusieurs desdits Jurés prennent en même temps un parti zélé & actif dans les élections, & deviennent ensuite les juges des candidats en cas de contestation.

La Cour civile contrôle les fonctions & décide de la compétence de la Cour ecclésiastique, quoiqu'établie par la même autorité Royale que la Cour civile. Elle fait injonction au juge ecclésiastique de ne point administrer serment à des officiers d'église, contraire à la loi qui l'ordonne.

Plusieurs autres abus & inconveniens, dont le détail n'est pas ici donné, subsistent dans la dispensation de la justice, & dans les procédures à la Cour.

La Cour royale qui s'attribue cette étendue de pouvoir & d'autoré arbitraire, est composée du Bailli & de douze Jurés. Le Bailli est de l'appointement de sa Majesté, mais il ne réside point dans l'île; il nomme un

Lieutenant qui y fait les fonctions du Bailli à tous égards. Les douze Jurés sont choisis par le peuple & à vie.

La loi n'exige aucune qualification, soit de biens, d'éducation, d'expérience ou de connoissance des lois, pour remplir la charge de juré. Les jurés forment aussi une tierce partie du corps législatif des États.

Les avocats sont nommés par le Bailli ou son Lieutenant & sans examen de qualifications : le nombre en est limité par l'usage à six.

Les écrivains de la Cour, autrement dit les procureurs, sont aussi nommés par le Bailli ou son Lieutenant : sans eux les particuliers ne peuvent soutenir leurs droits, ni conduire leurs procédures devant la Cour. Ils ont seuls le droit de passer les contrats publics ; & il est arrivé que ceux qui avoient à plaider & même à se défendre contre des personnes en autorité, ne pouvoient obtenir ni avocats ni écrivains à les assister.

Telle est la situation actuelle de vingt mille sujets de sa Majesté & au-delà, habitans de l'île de Jersey, par rapport à l'administration de la justice, & à la jurisprudence du pays.

Parmi les cas cités ci-devant il est des instances, dans la pratique, qui ne sont pas de nature à être authentiquées par le Greffier, n'étant pas recordées dans les registres ; mais qui ne laissent pas d'être des maux vrais & réels, dont le public devient la victime, & qui exigent l'interposition & les secours bienfaisans de son débonnaire Souverain.

Les États en même temps déclarent, que la représentation ci-dessus des procédures juridiques n'est point faite dans la vue d'accuser ni porter atteinte à aucun des membres de la Cour royale individuellement ou collectivement, mais dans la seule & unique intention d'exposer les erreurs & abus du système qui a long-temps prévalu & qui règne encore dans le pays au grand préjudice des habitans.

Dans la vue donc de remédier en partie à ces maux, en rétablissant une loi & coutume ancienne, en corrigeant ses abus & suppléant à ses défauts ; dans l'espérance de procurer aux habitans de l'île de Jersey & à leur postérité, le contentement & la tranquillité ; & afin de les attacher de plus en plus au Gouvernement qui les protège, les États proposent les articles suivans, pour être mis devant sa très-excellente Majesté en Conseil, afin d'obtenir son approbation royale.

ARTICLE PREMIER.

Que le jugement par enquête sera la loi en toutes actions criminelles ; lorsque l'accusé en demandera le bénéfice ; & en toutes actions civiles & mixtes, lorsque l'une ou l'autre le requerra.

II.

Lorsqu'une personne sera saisie pour avoir commis quelque crime ou délit,

lit, elle sera conduite, dans vingt-quatre heures de la saisie, devant le chef Magistrat, ou devant un des Magistrats de la Cour royale; lequel examinera le sujet & la légalité de la saisie, la nature de l'accusation, & les circonstances du crime allégué. Il aura le pouvoir d'administrer serment; & si la saisie lui paroît faite malicieusement ou dénuée de tout fondement, il pourra relâcher le prisonnier. Si le Magistrat trouve un sujet raisonnable de détention, il fera constituer prisonnier la personne accusée; autrement il pourra la recevoir à caution, si le délit est de nature à l'admettre; observant en cela cette règle uniforme : que les crimes de félonie & au-dessus, ne seront point admissibles à caution; & que les délits moins graves que félonie, doivent y être admis, la caution étant bonne & suffisante.

I I I.

Dans huit jours après l'emprisonnement de la personne, le connétable, centeniers & officiers, au nombre de treize ensemble, de la paroisse où le délit aura dû être commis, s'assembleront dans la Cohue royale, sur l'avertissement du Vicomte, & examineront le contenu de l'accusation, laquelle leur sera présentée par écrit. Ils auront le pouvoir d'entendre & d'examiner des témoins sur l'accusation; & ils rapporteront, par serment, à la Cour, s'ils croient qu'il y ait un fondement suffisant pour une poursuite criminelle. S'il est trouvé, par la pluralité des opinions, qu'il y a un fondement raisonnable, le prisonnier demeurera enditté criminellement. Si, par la pluralité des opinions, il ne paroît point un juste sujet d'accusation, le prisonnier sera déchargé de la poursuite & élargi de prison. Le connétable, centeniers & officiers auront également le pouvoir de prendre ou refuser caution, selon la nature de l'accusation, se conformant toutefois à la règle ci-dessus établie au sujet des cautions.

I V.

Dans huit jours, au plus tard, après que le prisonnier aura été enditté criminellement, & qu'il se sera remis à la loi du pays & au jugement de ses pairs, l'enquête sera appelée pour décider de son sort, à moins que quelque témoin indispensable, ne soit absent de l'île; alors la Cour pourra accorder un délai qui n'excédera pas le temps raisonnable pour la venue de tel témoin.

V.

L'enquête criminelle sera tirée des trois paroisses du district du prisonnier, comme il est ci-après expliqué, & sera sujette aux exceptions & formalités qui sont prescrites ci-après.

V I.

Les témoins qui seront appelés devant l'enquête, soit pour ou contre l'accusé, seront tous entendus de vive voix, le même jour que le crime sera jugé.

Gc.

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V I I.

Tous les hommes de l'enquête prendront serment, (chacun d'eux séparément,) de juger entre notre Souverain le Roi & le prisonnier, sur l'évidence qui aura été produite, & sans haine, faveur ou partialité, & conformément à la loi.

V I I I.

Les gens de l'enquête choisiront d'entre eux un chef qui délivrera ouvertement & publiquement à la Cour, le rapport de l'enquête sur l'accusation.

I X.

Après qu'un prisonnier aura été enditté criminellement, s'il refuse de se soumettre, soit à l'enquête ou à la Cour, il sera procédé vers lui comme s'il faisoit aveu du crime dont il est accusé; & vingt-quatre heures de temps au moins lui seront accordées pour y considérer & faire l'option.

X.

Lorsqu'un prisonnier sera absous par l'enquête, il sera élargi de prison; & à couvert de toutes peines, amendes, frais, atteinte ou accusation quelconque pour le même fait.

X I.

Si le prisonnier est trouvé coupable par l'enquête, il sera dûment atteint & convaincu du crime dont il étoit accusé. La Cour alors prononcera la peine que la loi aura imposée contre lui, & en ordonnera l'exécution.

X I I.

Il sera accordé aux criminels condamnés à mort, (excepté pour le crime de meurtre,) un temps raisonnable & suffisant pour obtenir la grâce du Prince, avant que la sentence soit exécutée.

X I I I.

Il y aura un recueil ou code criminel préparé pour le pays; dans lequel les délits & les peines seront désignés par des lois claires & précises, afin que chacun connoisse les règles de sa conduite, ce qu'il doit à la société, & la peine qu'il encourra s'il contrevient aux lois; & jusqu'à ce que ce recueil soit fait & approuvé, les lois criminelles d'Angleterre serviront de règle à la Cour royale dans ses jugemens, aussi loin comme les lois criminelles d'Angleterre sont applicables au local de l'île de Jersey. Ce code sera dressé par les États, avec l'assistance des Officiers du roi & des praticiens de l'île, & avec autant d'expédience qu'il sera possible. Il sera conçu dans l'esprit & avec la modération des lois criminelles d'Angleterre; & après qu'il aura obtenu l'approbation de sa Majesté en Conseil, les lois qui y seront entrées demeureront pour règle invariable à l'avenir, jusqu'à ce qu'elles soient rap-
pelées par la même autorité.

X I V.

Pour l'appointement & la formation des enquêtes civiles & criminelles, on observera le système suivant :

Il y aura dans toutes les paroisses de l'île une assemblée paroissiale, tenue tous les trois ans, la première semaine du mois d'avril. Ces assemblées choisiront, d'entre les plus notables & intelligens des habitans de leurs paroisses respectives, des hommes pour servir comme hommes d'enquêtes dans les causes civiles, mixtes & criminelles, lorsqu'ils y seront appelés.

X V.

Le nombre d'hommes ainsi choisis, ne sera pas au-dessous du tiers, & n'excédera pas la moitié du nombre total des hommes qui seront sur le rât de la paroisse & résidans dans l'île.

X V I.

Tout homme, né sujet de sa Majesté, âgé de 20 ans, & au rât, sera éligible & contraint d'agir comme homme d'enquête, à la réserve des juges, du clergé, des officiers de la Cour royale, des avocats, & des gens de la faculté en médecine qui en seront exempts.

X V I I.

Parmi les hommes d'enquête, ainsi élus dans chaque paroisse, six des plus capables, & qui payent au moins un rât de dix quartiers, seront choisis, par ballot par l'assemblée, pour servir dans les enquêtes spéciales en causes civiles & mixtes, sans que ce choix les exempte de servir dans les enquêtes criminelles, comme il est ci-après établi.

X V I I I.

Chaque connétable fera inscrire, dans un livre, le nom des personnes choisies pour les enquêtes ordinaires, & le nom de ceux qui seront choisis pour les enquêtes spéciales; & dans huit jours après chaque élection, il en délivrera au Vicomte une vraie copie, signée de sa main.

X I X.

Les quatre dernières semaines de chaque terme seront mises à part pour les jugemens par enquête en causes civiles & mixtes, & on y procédera de cette façon : les causes dans lesquelles l'une ou l'autre des parties aura demandé l'enquête, soit par lui-même, par son avocat ou procureur, seront entrées sur une liste par le Greffier de la Cour, dans l'ordre qu'elles auront paru dans le cours de chaque terme, & les causes seront jugées par les enquêtes, suivant l'ordre de cette liste, comme il est plus amplement expliqué ci-après.

X X.

Si les quatre dernières semaines du terme ne suffisent pas pour les juger.

menç par enquête, les causes qui resteront sur les listes, seront remises & décidées les premières semaines du prochain terme.

X X I.

Si le jugement par enquête est demandé dans une cause d'amirauté, ou autre cause de brièveté, l'enquête sera appelée sans délai, même hors terme.

X X I I.

Les causes qui viennent devant la Cour, & dans lesquelles le jugement par enquête ne sera pas demandé, seront traitées & décidées par la Cour royale, comme il est présentement d'usage.

X X I I I.

Dans la vue qu'il y ait toujours un nombre suffisant & assuré, de gens non reprochés & exempts de recusations, dans la liste des enquêtes, les douze paroisses de l'île seront divisées en quatre districts; trois paroisses formant un district, savoir; S. Hélier, S. Laurens, S. Brélade, premier district; S. Pierre, S. Ouen, Ste. Marie, deuxième district; S. Jean, la Trinité, S. Martin, troisième district; Grouville, S. Clément, & S. Sauveur, quatrième district.

X X I V.

Les causes entre les habitants des paroisses, soit de S. Hélier, S. Laurens ou S. Brélade, seront décidées par une enquête tirée de ces trois paroisses ensemble, & formée de la manière qu'il est ci-après expliqué.

X X V.

Si une des trois paroisses est partie en la cause, ou si elle a intérêt dans la décision, alors l'enquête sera tirée des deux autres paroisses.

X X V I.

Si deux des paroisses ou toutes les trois paroisses y sont intéressées, l'enquête sera tirée du prochain district, suivant le cours du soleil; pourvu toutefois que deux des paroisses de ce dernier district n'y aient pas d'intérêt, autrement on procédera au prochain district.

X X V I I.

Si l'une des parties est d'un district, & l'autre partie d'un autre district, l'enquête sera tirée du district du défendeur.

X X V I I I.

S'il y a plusieurs défendeurs, & qui ne soient pas d'un même district, les défendeurs conviendront entre eux du district, autrement on prendra l'enquête du district du défendeur qui sera nommé le premier dans l'action.

X X I X.

Les mêmes règles, à tous égards, auront lieu pour les autres districts.

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X X X.

Le Vicomte fera comparoître les gens d'enquête lorsqu'il en fera besoin, & se conformera aux règles suivantes : il fera inscrire tous les noms des gens d'enquête du pays, chacun sur une étiquette ou morceau de papier. Il mettra ensemble dans une boîte les noms des gens d'enquête de chaque district, excepté les noms de ceux qui sont choisis pour les enquêtes spéciales.

X X X I.

Le mercredi qui précédera immédiatement les jugemens par enquête dans chaque terme, le Vicomte se trouvera dans un des appartemens de la Cohue royale, à dix heures du matin, & là, en présence de toutes les parties contestantes qui jugeront à propos de s'y rencontrer, les noms de vingt-quatre personnes, après être mêlés ensemble, seront tirés au hazard de chacune des quatre boîtes, & déclarés par le Vicomte aux parties présentes, pour être les noms des hommes qui seront appelés aux quatre premiers jours d'enquête dans leurs districts respectifs; & il sera permis aux parties de prendre copie des noms ainsi tirés de chacune des boîtes.

X X X I I.

Tous les prévôts seront présens à cette entrevue, afin de prendre les ordres du Vicomte pour ajourner les gens d'enquête.

X X X I I I.

La liste des causes, gardée par le Greffier, sera alors produite & divisée en quatre parties, chaque partie contenant les causes qui seront du ressort des enquêtes des quatre districts respectivement.

X X X I V.

La cause qui se trouvera la première sur la liste du Greffier, aura la préférence du premier jugement, & les vingt-quatre hommes d'enquête de ce district, seront en conséquence ajournés pour le premier jour. Les vingt-quatre hommes du prochain district seront ajournés pour le deuxième jour d'enquête, & de même les autres districts en rotation; chacun des districts ayant un jour d'enquête à son tour.

X X X V.

A chaque jour des jugemens par enquête le Vicomte se trouvera dans la Cohue royale, au moins une heure avant l'assise de la Cour, alors l'acteur & le défendeur, dans chaque cause en jugement, pourront retrancher chacun six des vingt-quatre hommes appelés par le Vicomte. Ils seront retranchés un à un, commençant par l'acteur, & les douze qui resteront formeront l'enquête pour cette cause.

X X X V I.

L'enquête sera produite à la Cour par le Vicomte, & on fermentera sc-

parément chacun des hommes, de maintenir la vérité & de rendre justice entre les parties sans haine, faveur ou partialité & conformément à la loi.

X X X V I I.

Les hommes de l'enquête choisiront d'entre eux un chef qui délivrera ouvertement & publiquement en Cour le rapport de l'enquête.

X X X V I I I.

Il sera payé à chacun des douze hommes de l'enquête vingt sous & au Vicomte quarante sous, par la partie qui décherra; tout quoi sera levé par le Vicomte.

X X X I X.

Les témoins seront tous entendus de vive voix & examinés de part & d'autre, en présence de l'enquête, à moins qu'un témoin ne soit sur son départ hors de l'île; alors il pourra être examiné en présence du Vicomte & des parties, comme il est présentement d'usage.

X L.

Lorsqu'un jour ne suffira pas pour décider toutes les causes d'un district, le Vicomte, après la levée de la Cour, se trouvera de nouveau avec les parties qui resteront, & prendra derechef, hors de la boîte de ce même district, les noms de vingt-quatre autres personnes, lesquelles seront ajournées par les prévôts, pour le prochain jour d'enquête qui viendra au tour de ce district; & on procédera de la même manière pour un troisième jour d'enquête, & plus s'il est besoin; étant entendu que les hommes d'un district qui auront été une fois appelés pour enquête, ne pourront être ajournés une seconde fois dans le même terme, jusqu'à ce que tous les hommes d'enquête aient été appelés, à leur tour, si tant il y a de causes à décider.

X L I.

A la première évocation des causes, dans chaque terme, il sera au pouvoir de l'une ou de l'autre partie de demander le jugement d'une enquête spéciale, en payant les frais de telle enquête; & si les deux parties demandent d'avoir le jugement d'une enquête spéciale, les frais en seront payés par la partie qui décherra.

X L I I.

L'enquête spéciale sera formée de cette manière : les noms des six personnes choisies à part, par les douze paroisses pour la fin susdite, seront gardés dans une boîte par le Vicomte; & le jour que les jugemens par enquête ordinaire auront fini, le Vicomte à la levée de la Cour, & en présence des parties, comme il est ci-devant dit, tirera au hazard hors de ladite boîte les noms de vingt-quatre personnes & les délivrera aux prévôts respectifs, afin qu'ils les ajournent de comparoître au jour qui sera fixé par la Cour; & au reste on procédera dans l'enquête spéciale, & les parties auront le même

droit d'exception à tous égards, comme il est établi dans l'enquête ordinaire.

X L I I I.

Il sera payé à chacun des douze hommes de l'enquête spéciale, deux livres par chaque cause qu'ils jugeront & au Vicomte quatre livres; ce qui sera levé comme à l'égard des enquêtes ordinaires.

X L I V.

Il y aura appel à sa Majesté en Conseil des jugemens par enquête, tant spéciaux qu'ordinaires, en toutes affaires de droit, dont la valeur ne peut s'apprécier, & en toutes affaires de propriété, lorsque la valeur montera à ce qui est déjà établi par la loi.

X L V.

Pour former l'enquête en cause criminelle, on procédera de cette manière: le Vicomte mettra premièrement dans la boîte du district du prisonnier, parmi les autres noms, ceux des dix-huit personnes choisies dans les trois paroisses de ce district, pour former les enquêtes spéciales.

X L V I.

Le Vicomte, en présence du Procureur ou Avocat du roi & de quelqu'un agissant pour le prisonnier, s'il en appointe, & au moins deux jours avant que le prisonnier soit jugé, tirera au hazard de dans ladite boîte quarante-huit noms, qu'il donnera par écrit à l'Officier du roi & à celui qui agit pour le prisonnier. Les quarante-huit personnes ainsi tirées hors de la boîte, seront ajournées pour servir comme enquête criminelle sur le prisonnier.

X L V I I.

Si, parmi les quarante-huit personnes, il se trouvoit quelque parent jusqu'au septième degré du prisonnier, alors d'autres noms seront tirés hors de la boîte pour compléter le nombre de quarante-huit.

X L V I I I.

Si un Connétable & ses officiers avoient servi dans l'enditement du prisonnier, & que leurs noms seroient dans la boîte. ils seront premièrement tirés avant d'y prendre l'enquête.

X L I X.

Lorsque la Cour sera assise, & après qu'on aura donné au prisonnier la lecture de son accusation, & qu'il aura plaidé son innocence, il sera permis au prisonnier d'excepter en premier lieu, péremptoirement, contre douze des hommes d'enquête qui seront appelés. Le Procureur du roi ensuite offrira ses exceptions pour que la Cour en décide; & le prisonnier pourra après continuer à retrancher du nombre des hommes présens, jusqu'à ce qu'il n'en reste plus que vingt-quatre, lesquels demeureront pour l'enquête

criminelle, & feront chacun d'eux sermentés, & procéderont comme il est ci-devant établi.

L.

Après les exceptions & récusations susdites, s'il reste encore un juste sujet de récusation vers quelqu'un des gens d'enquête, le Vicomte fera convenir d'autres personnes pour fournir le nombre de vingt-quatre hommes, sans reproche.

L I.

Cette règle constante & uniforme aura lieu dans les enquêtes, savoir; nul ne sera reçu à servir comme homme d'enquête, en cause criminelle, s'il est trouvé parent dans le septième degré inclusivement du prisonnier; ni en cause civile, s'il est cousin germain ou plus proche parent de l'une ou de l'autre partie.

L I I.

Si le Vicomte a aucun intérêt dans une cause en jugement, s'il est cousin germain ou plus proche parent d'une des parties; s'il a conseillé ou pris parti directement ou indirectement dans la cause, son ministère dans chacun de ces cas, ne sera point admis, & alors l'un des Dénonciateurs agira à la place du Vicomte & produira l'enquête; si les mêmes raisons ont lieu vers les Dénonciateurs, la Cour appointera, à leur place, une personne non intéressée dans la cause, qui sera sermentée à cette fin.

L I I I.

Lorsque les noms des hommes d'enquête seront tirés hors des boîtes, par le Vicomte, il sera au pouvoir de l'acteur ou du défendeur de se satisfaire que la boîte contient tous les noms que la loi admet (& non plus.) Et s'il étoit trouvé que les noms seroient augmentés ou diminués, ou que quelque fraude, faveur ou malice seroit commise, contraire à la loi présente, le Vicomte en deviendra responsable; & s'il a lui-même contribué à la fraude, il sera sujet à une pénalité de cent livres sterlings, & rendu incapable de tenir l'office de * Vicomte dans cette île.

L I V.

A l'égard des autres formalités, fonctions, procédés & compétences des enquêtes pour causes civiles, mixtes & criminelles, auxquels il n'est pas pourvu par ce règlement, il est entendu qu'on se conformera, à tous égards, aux règles établies en Angleterre, dans les jugemens par enquêtes ou *trials by jury*.

Les États enfin, après avoir employé plusieurs jours depuis le 12 août dernier à examiner, discuter & corriger les articles ci-dessus proposés, & après

* Le Vicomte en l'île de Jersey tient son office de l'appointement de sa Majesté, & durant son bon plaisir,

une mure & pleine considération du sujet, les ont approuvés le 4 octobre 1786.

Les États en même temps soumettent le tout avec la plus grande déférence & entière confiance à sa très-excellente Majesté & aux très-honorables Seigneurs de son Conseil, se reposant sur les lumières & le plus sain jugement de leurs Supérieurs. Ils supplient très-humblement leur débonnaire Souverain d'accorder sa sanction Royale au plan proposé, ou tel autre moyen de remède que sa Majesté daignera prescrire en sa sagesse pour le soulagement & le bien-être de ses fidèles sujets, habitans de l'île de Jersey.



TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

The humble Petition of the undersigned Members, being a majority of the States of your Majesty's Island of Jersey,

SHEWETH,

THAT your Majesty was pleased to issue an order, dated the 2d. of June 1786, in which several points in dispute between the Lieutenant Bailly and the assembly of the States were arranged, and the bounds and limits of their respective authority adjusted.

That it has been the endeavours of your Petitioners, as it was their duty, to pay the strictest obedience to the regulations contained in the said order, and to promote that concord and harmony, which are necessary for the dispatch of public business.

That, truly sensible of the paternal care which your Majesty has shewn for the welfare and prosperity of your subjects of this island, in settling the legislative assembly on a solid basis, your Petitioners flattered themselves that the Lieutenant Bailly would be animated with the same sentiments, and that no extensions of his powers which are defined with such precision, and no incroachments on their privileges which are so clearly marked out, would ever again be attempted.

That, notwithstanding these reasonable expectations, your Petitioners have observed, with much concern, the Lieutenant Bailly, in some late instances, stretching his powers beyond the bounds assigned by your Majesty, and in others assuming new prerogatives, in direct violation of your Majesty's pleasure signified in your order of the 2d. of June 1786.

That your Majesty, in the above-mentioned order, has thought fit to allow the Lieutenant Bailly to enter his dissent, if he will, on any proposition that concerns your Majesty's interest or prerogative, or the

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constitution or laws of the country, when such proposition is meant to be passed into an act to take effect immediately. That, though your Petitioners do not presume to complain of a regulation which your Majesty in your great wisdom has enacted, yet they humbly conceive that the use the Lieutenant Bailly has made of that prerogative in entering his dissent twice in one day, namely on the 15th. of august last, on a subject not within the precinct of his power, and on the most trifling occasion, will appear not to be warranted by your Majesty's order, but to be a rash, ill-judged, and arbitrary proceeding.

That they decline troubling your Majesty with the particulars of that transaction, having already laid them before the right honourable the Lord President of your Majesty's most honourable Privy Council, they beg leave only to add, as a further ground of just alarm, that the freedom of debate is frequently impeded, sometimes by hints and intimations, and at other times by open declaration on the part of the Lieutenant Bailly of his intentions to enter his dissent on propositions made in the States, even before such propositions have been discussed or passed into acts.

That it frequently happens, when any matter is proposed in the States which does not meet with the Lieutenant Bailly's approbation, that, not content with intimidating the members by threatening a dissent, he assumes and exercises a right of limiting the duration of a debate, and of breaking up the States in the midst of the most important business, and at an early hour, without the least attention or respect for the representatives of the people assembled from all parts of the country, and some of them at a considerable distance from the place of convention. That a most flagrant instance of this contemptuous conduct occurred on the 4th. of october last, when the proposition for the re-establishment of juries, after having been lodged au greffe for a considerable time, and having undergone the examination and corrections of several Committees, was finally to be disposed of in the States. That at the opening of the business about eleven o'clock, your Petitioners were greatly surprised by a kind of order from the President to make as much haste as possible, as he would stay no longer than two o'clock; that by that means three hours only were allowed for reading a voluminous body of evidences, a long proposition, and for deliberating on the whole; that the reading of the evidence and proposition, was closed at about half past one o'clock; and your Petitioners think themselves obliged not to pass over in silence a circumstance which though seemingly trifling and unimportant, will tend to shew to your Majesty the miserable shifts to which the legislative assembly of this country is reduced by the despotic controul of the Lieutenant Bailly, namely the degrading necessity they were under of requesting those members to read the evidence and proposition who could read with the greatest dispatch.

That about half past one o'clock, P. M. the member, who had moved

the proposition, got up with the view of explaining its contents, its principal tendency and effect, as he then declared, but was suddenly stopped by the President, who asked him if his declamation should be a long one, and ordered him to be brief, as he would retire at two o'clock. That this declaration tied down to silence the above-mentioned member, who said that rather than delay the determination of this matter by the Lieutenant Bailly's breaking up the assembly, he would decline speaking, and leave the proposition to stand or fall by its own merits. That many of your Petitioners forbore also to speak through apprehensions of the Lieutenant Bailly's quitting his seat, and leaving a business which they considered as of the highest consequence to this country, unfinished.

That it is with real concern your Petitioners are obliged, in justice to themselves and to the people whom they represent, humbly to complain to your Majesty of a still more unjustifiable breach of their privileges.

A petition had been presented to the States on the 10th. of July last on the part of the merchants of the island, respecting the defective and ruinous state of the harbours, and praying the States to support and give their sanction to a petition on the same subject, which they had presented to your Majesty in Council. The matter in question was repeatedly mentioned in that assembly, but on account of the interference of other affairs was postponed 'till the first of November, when a motion was made and lodged au greffe in order to obtain the sense of the States on this important commercial object. On the 5th. of the same month, this matter was brought forward, and recalled to the notice of the States. The President insisted this motion should be postponed, and that the report of the Committee for the hospital should be first taken into consideration, urging that the States had referred that subject only to the deliberation of that day. The member, who took up this business, declared he was aware, from late experience, that there was reason to fear the assembly might be dissolved before the sense of the States could be known on the Petition of the merchants; but if the President would assure him that the question would be agitated before the States were dismissed, he was ready to decline putting to the votes the point of preference. Of this no assurances, and indeed no answer whatsoever, could be obtained from the President.

The weakness and inconsistency of the President's plea for giving the preference to the report of the Committee of the hospital before the Petition of the Merchants will appear evident for several reasons, and principally for the following.

1st. A variety of business had been transacted previous to that which he pretended to look upon as the only business of the day. The first object that called the attention of the States was, the death of her Royal highness the princess Amelia, and an act was passed expressive of their for-

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row on that melancholy event. The Governor then addressed the States respecting the defenses and fortifications of the island, and a resolution took place on that subject; a third motion was made directing the Greffier to keep in future a regular list of the various matters lodged au greffe for the inspection of the members. The President himself and two other members read each a Petition which had been put into their hands, and which were ordered to be lodged au greffe.

2dly. It was then only half past twelve o'clock, and the members of the States; who spoke on that occasion, assured the President that, after they had disposed of the Petition of the Merchants, they would immediately proceed to the business of the hospital, and that they were determined to finish both before they parted.

3dly. The matter of the hospital might have been decided upon, an hour later, without any prejudice to the community, as the objects, which the report of the Committee recommended to the States, were of no great moment in themselves, and had reference to a distant period; whereas it was absolutely necessary that an immediate answer should be given to the Merchants, as it was not known how soon the right honourable the Lords of the Committee of Council might fix a day for taking into consideration the papers that lay before them on the subject of the harbours. That, for these reasons, the majority wished to enter, in the first instance, on the commercial business, without at the same time losing sight of that of the hospital, for which there was ample time.

That the Lieutenant Bailly asked the votes of the assembly to know which subject should be first debated, the report of the Committee of the hospital, or the Petition of the Merchants; and the States having determined that the latter was the most pressing and ought to have the preference; " in that case, exclaimed the Lieutenant Bailly, I dissolve the assembly. " He then rose precipitately from his seat, and immediately withdrew. It was then only a quarter before one, about two hours after the commencement of the public business.

That this extraordinary behaviour of the Lieutenant Bailly, in taking the sense of the States, to be informed upon what subject they wished first to proceed, and afterwards breaking up the assembly, when he found their opinions were contrary to his own, is not only treating the representatives of the people with the highest contempt, but is in effect resuming a prerogative, which he heretofore arrogated to himself, of putting or refusing to put to the votes what questions he pleased, and which your Majesty has thought proper to disallow, in your order of the 2d. of June 1786, as novel, arbitrary and inconvenient, and as it was a means of throwing the whole legislative power into the hands of one man.

That finally, your Petitioners beg leave to observe that this conduct of the Lieutenant Bailly entirely over-rules, and almost annihilates the States,

and is a repetition of those unwarrantable proceedings, which your Majesty was pleased to declare illegal, and on which the right honourable the Lords of the Committee of Council expressed their opinion in the following words :

“ That in particular the Lieutenant Bailly, by himself or with the Jurats, has presumed to over-rule the States, the one by refusing to put questions to the votes, the others by leaving the assembly abruptly or by absenting themselves on a convention of the States, on purpose to incapacitate the States from acting, all which methods of stopping or preventing the States from proceeding to the business before them, the Committee humbly advise your Majesty to declare to be illegal. ”

Your Petitioners therefore most humbly pray, that your Majesty will be graciously pleased to take into your Royal consideration the conduct of the Lieutenant Bailly in the instances above-mentioned. That your Majesty will be graciously pleased to order, that the said Lieutenant Bailly do not presume in future in any manner whatever to over-rule the assembly of the States, under such pains as to your Majesty shall seem meet. That the Lieutenant Bailly be permitted to enter his dissent on such resolutions of the States only as concern your Majesty's interest or prerogative, the constitution of the island, or laws confirmed by or with your Majesty's Royal authority, and in case such resolutions should be meant to take effect before your Majesty's consent is obtained. That the said Lieutenant Bailly be strictly enjoined, under such pains, as your Majesty shall judge expedient, not to rise from his seat for the purpose of breaking up the assembly of the States at any time while the States shall think proper, during the course and setting of one day, to continue proceeding on the business before them; and that public business may not in future remain at a stand in the island, if the case last above-mentioned should happen again, that the States may be at liberty, on their being deserted by their President, to elect a Judge delegate in the same manner as, by ancient and immemorial usage, they are accustomed to do upon the death, absence, or indisposition of the chief Magistrate. These, or such other relief in the premises as to your Majesty in your great wisdom shall seem meet.

And your Petitioners as in duty bound will ever pray, &c. &c. &c.
Jersey 21st. november 1786.

Signed by a great majority of the members of the States:



Representation of the Lieutenant Bailly and Jurats of the Royal Court of Jersey, complaining of proceedings in the States respecting the trial by jury and publications which reflect on their conduct.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

W^e, the Lieutenant Bailly and Jurats of your Majesty's Royal Court of

Jersey, being constantly disappointed in our honest exertions to promote the peace and welfare of this country, think it our indispensable duty to approach your sacred Majesty in behalf of a distracted country, and in support of the necessary authority of your civil jurisdiction here.

After the issuing of your Majesty's late gracious order in Council of the 2d. of June 1786, we entertained hopes that those party animosities that have so long disturbed this island, and which have given your Majesty's Council so much trouble, would have subsided; but, to our great sorrow, notwithstanding our sincere and uniform endeavours to conciliate the minds of parties and to promote harmony and good understanding among your Majesty's subjects, our efforts have proved ineffectual, and we think it our duty as Magistrates to mention our serious apprehensions of the danger, which, in the present state of anarchy and confusion, seems to threaten your Majesty's government in this island.

Soon after your Majesty's said order had been published, a translation thereof in french was printed and dispersed about the island, a performance which, we humbly conceive, is highly necessary to be transmitted herewith for your Royal consideration that your Majesty, may judge how far the true and genuine sense of your order in Council is preserved, and whether the annotations subjoined do not evidently tend to keep up a factious spirit, and mislead the people in matters of the utmost importance, by attempting to justify those points, which your Majesty in your great wisdom hath thought proper to condemn, and in holding up the members of your Royal Court as objects having particularly incurred your high displeasure.

As soon as this unfaithful and unfair translation and annotations had been industriously dispersed, a considerable number of the most inflamed partisans gave a dinner upon the town hill to M. Dumaresq, the constable of S. Peter's, to thank him for his pretended public services, with a view no doubt of lessening, in the opinion of the inhabitants, the weight of the disapprobation which your Majesty had been pleased to manifest on his appointment of standing agent and protector of the privileges of the island. Upon this occasion a mob, to the number of some thousands, was invited and assembled by the firing of guns, and exhibited a scene of the greatest riot and disorder; and in the evening the party, attended by the populace, paraded in the most tumultuous manner the streets of S. Helier's, wearing in their hats blue cockades with an inscription of Dumaresq and Liberty; the said Dumaresq being seated in a chair and carried in the midst of them upon their shoulders, with colours flying and music playing; and we are sorry to observe that, on this occasion, two Jurats and several of the Clergy and Constables were among the most active in the crowd.

We are sensible that this is a dangerous and manifest violation of the ordinances of king Henry the 7th., and of the orders of Royal Commissioners in the reign of queen Elizabeth, and of the instructions given to the

Bailly and Jurats by the right honourable the Lords of the Committee of Council on the 11th. of april 1734, for the preservation of the public peace; but we could not with safety put the law in execution on the present truly alarming and critical situation of the country.

In this tumultuous and illegal assembly of the people, in which every exertion was made to discredit the laws of the country and make the Magistrates odious in the eyes of the public, the minds of the populace were prepared to receive, blindly, a proposal for the pretended reestablishing of juries in this island, and accordingly on the 21st. of july 1786 the said M. Dumaresq, as the constable of S. Peters, proposed to the assembly of the States, after a long speech, replete with acrimony and invective against the civil jurisdiction, that a Committee should be appointed to prepare a plan of regulations to remedy pretended defects and abuses in the administration of justice, and to reestablish trials by jury; which motion, after being put into writing, was agreed to notwithstanding it was observed by several of the Jurats and by your Majesty's Crown officers, that this mode was contrary to your Majesty's order in Council of the 28th. of march 1771, which directs that every proposals for a new law should be lodged au greffe in the form it is meant to be passed, and notwithstanding the earnest request of six of the Constables, that this formality, in the present case, might be punctually observed, that they might have time to consult their parishes. The Committee, four of each body, was appointed of the nomination of M. Dumaresq.

On the 12th. of august following, M. Dumaresq, finding that his Committee would not take upon them the consequences of producing his plan, rose again in the States, and laid before the assembly a proposition, which is contained in the paper transmitted herewith for your Majesty's information, and lodged the same au greffe.

On the 28th. of august, the proposition was resumed, and referred to the Committee appointed on the 21st. of july preceeding, and on the declaration of messieurs Marett and Le Hardy, two of the Jurats, that they could not act in the Committee, by reason of the accusation against the Court, a new act was made, declaring two of each body competent to act, and on the 18th. of september, upon the application of the constable of S. Peter's stating they had not yet been able to go through their researches of the Court rolls and records, the matter was put off 'till the 4th. of october 1786, when, after a cursory reading of the proposition, without entering into any separate discussion of the numerous articles, and a hasty production of a vast numbers of acts of the royal Court beginning as far back as the year 1489, and slightly reading some of them, the President was urged to put it to the votes, before the members could have time to offer their reasons for or against the proposition, notwithstanding the repeated declarations of the President that he was ready to appoint another day for that purpose, and the proposition was approved of by the two Jurats who acted in the Com-

mittee, by all the Clergy present except, the Dean and six Constables and one Centenier.

We think ourselves bound in justice to our character as Magistrates, most humbly to submit to your Majesty's superior judgement, the tentency of the preamble to the aforesaid proposition, which we conceive is pregnant with the most mischeivous consequences. Its author must have been convinced that it was impossible for the royal Court who form one third of the States of this island, or for your Majesty's Crown officers whose particular province it is to speak on the subject of any new laws proposed, to deliberate on this important subject with those who assumed the right of accusing and reprobating their conduct, he therefore could have no other motive but to keep alive and foment those divisions which, as your Majesty's Council hath expressed on a former occasion, have too much inflamed the minds of the people already, and the more effectually to obtain this end, the proposal, thus lodged au greffe, was immediately after printed and dispersed amongst his friends and adherents, and is of late publickly held up to sale.

During this period, a gazette hath also appeared every week, in which the deliberations of the States are represented in the falsest colours, which we also take liberty to transmit herewith. How far this is conformable to your Majesty's decision rescinding the act for holding the States with open doors, we will not presume to determine.

We humbly submit to your Majesty's superior wisdom, how far the lodging such a proposition au greffe, the printing and dispersing the same, and the sale of it to the public, proceeds from a fixt determination to inspire the public with indignation against the members of your Majesty's civil jurisdiction.

Our justice and integrity is there impeached in direct terms, and we are there represented to condemn your Majesty's subjects without hearing them, to judge in direct opposition to the laws, and as having been guilty of many others enormities which, if founded in truth and justice, must expose us to infamy, degradation, and punishment.

We are far from conceiving the most distant idea that we are not amenable to your Majesty for any misconduct that can be objected to us. We, on the contrary, esteem ourselves happy to be relevant of your Majesty, and accountable only to your Majesty's superior wisdom and justice, and that we can enjoy the precious privilege of applying to that august Tribunal, as we do on this occasion, for the redress of those wrongs by which we are injured as individuals, and the public justice of the Country is insulted; but we, with all humility beg leave at the same time to observe, that in every kind of accusation, more particularly in that which is pointed against the ministers of justice, we conceive the proposed delinquents ought to be first arraigned before the judge who is alone competent

petent to take cognizance of the case, and that they ought not to be pronounced to the world at large guilty, before they have been brought to a legal trial.

By an order of king Charles the second in Council, of the 19th. of may 1671, it is provided, that doleances being of an odious nature as intended principally against the judges whose honour is to be maintained for the sake of justice; in case the complainant shall not make good his doleance, his Majesty, by the orders of his Council, will lay such fine upon the party failing, as the case shall require.

If, in a case of litigation before the Royal Court when they may think it just to refuse an appeal to your Majesty in Council, a complainant who shall not make good his doleance is subject to punishment, it is humbly, and with great deference to your Majesty's superior judgement, conceived, that such an unprovoked attack, as the present, upon the honour and integrity of a Court of justice, from a person who exercises, under the same Court, the offices of Constable and of advocate or pleader, deserves an attonement proportionate to the greatness of the injury.

At the same time, being conscious of the rectitude and integrity of our public conduct in the administration of the sacred trust reposed in us, we by no means wish to be screened from the most minute examination of our actions whenever your Majesty shall, in your great wisdom, deem it proper, being confident that we shall meet from your Majesty that support and countenance, which public Magistrates more specially stand in need of, in order to guard them from the unjust attempts which their station exposes them to, on the part of persons with whose interests or views the right administration of justice may often clash; and should your Majesty deem it necessary to require our opinion on the said proposition, in behalf of the public, we most humbly beseech to be reserved to offer our reasons, when our public character being cleared and justified from the heavy charges so laid to us, we may be enabled to do it with a dignity and confidence becoming our station.

We have made it our duty to shew the most ready and unequivocal submission to your Majesty's orders, and endeavoured, both by words and example, to induce your Majesty's subjects of every denomination, to receive them with due respect and gratitude: we have discharged our duty according to the best of our abilities, and, we trust, in a manner consistent with the laws and customs of the island: and have no way merited the treatment we experience, unless our honest endeavours and exertions to oppose those changes which your Majesty hath thought fit to condemn, and our still wishing to oppose other dangerous innovations, is matter for accusation and obloquy.

Under these circumstances, we humbly conceive, that so flagrant an attempt to render us odious as Magistrates to the whole community, puts it out of our power to administer justice in that form and proper manner

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which we are bound to do by our oaths and the dictates of our consciences.

We therefore humbly pray your Majesty, to take our case into your gracious consideration, and to make such order therein as to your Majesty's great wisdom shall seem meet.

Will. Ch. Lempriere, Lieutenant Bailly.

Ph. De Carteret.

Fr. Marett.

Nic. Messervy.

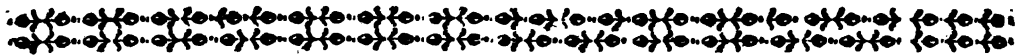
Ch. Payn.

Elias Pipon.

Ph. Robin.

John Poingdestre.

James Hammond.



Representation of the Lieutenant Bailly and eight of the Jurats of the Royal Court of Jersey, complaining of the incendiary harangues and publications of evil-disposed persons respecting the payment of corn rents in that island.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL:

The humble Representation of the Lieutenant Bailly and Jurats of your Majesty's Royal Court of Jersey,

S H E W E T H,

THAT, after having lately represented the alarming state of your Majesty's civil government in this island, it is with real concern that we find ourselves obliged again (as guardians of the rights and privileges of your Majesty's subjects, and as Magistrates expressly charged by orders of Council to watch over the public peace and tranquillity,) to importune your Majesty on a subject of the most serious importance, we mean the incendiary harangues and publications of evil-disposed persons respecting the payment of corn rents, which, entering into the interested views of the multitude, visibly tend to inflame their minds, and we are apprehensive may, if not timely stopt by your Majesty's interposition, cause fresh insurrections, and endanger our persons and those of your faithful and peaceable subjects.

In this island, a considerable part of the real property of the inhabitants consists in corn rents arising from lands and tenements, which when alienated are chiefly conveyed over for these kind of rents stipulated to be

rendered annually to the grantor and his assigns at Michaelmas; though, in some instances, rents in money and other kinds are stipulated for.

In process of time it was found by some legal impediment, some of these corn rents were liable to remain, and often did remain unpaid for a considerable number of years; wherefore it became necessary, in order to prevent the contentions which the opposite interest of the parties might occasion, to set a price upon the rents, thus in arrear, proportional to the value of corn in each respective year. This mode of valuation or taxation was called the *ventes*, being considered as a kind of sale or adjudication of the rents so unpaid; and this practice being permitted to grow into a custom, was afterwards found to merit the sanction of the Royal Commissioners sent over by queen Elizabeth in the year 1591, who, after having made other provisions for privileged rents, directed, that all other rents of inheritance, that are staid or delayed for a time, by reason of a decree, or by any such ordinary means, shall be taxed at the *ventes*, which *ventes* shall be taxed hereafter according to the highest ordinary market price; whereof the Viscount is charged from time to time to make a suitable note.

Since the above regulation, the Royal Court is authorized, by another subsequent regulation approved of by your Majesty's order in Council of the 28th. february 1771, (obtained at the instance of the States of the island, in hopes to appease the clamours of the people,) to make annually on the taxation of these rents, an abatement of two sols per cabor of wheat on the market price, as an allowance for carriage and waste on the wheat sold at market; and when the price shall exceed thirty sols per cabor, the Court is empowered to extend the abatement to three sols per cabor. In consequence of these regulations, and the usage antecedent, the Royal Court assembles on the saturday next after the 10th. day of august yearly, and fixes a price on those corn rents which had become due the Michaelmas preceeding; and may serve as a rule for the payment of such rents owed to your Majesty and to the Lords of manors, that have not been paid in kind and remain in arrear. In fixing the price, the Court is guided by the report of the Viscount or sheriff, who superintends the market, and takes, on each market day, an account of the quantity of wheat sold, and the medium price of the same.

But the quantity of corn rents, which formerly bore some proportion to the produce of the country, being for some years past considerably augmented, owing to the increased value of lands and houses, and to the great additions and improvements in the buildings of the towns of S. Helier and S. Aubin, and to the more frequent alienation of such real property, it may at this day be considered as impracticable to pay them all in kind; wherefore a considerable part of those rents now fall in arrear.

This description of the nature and quantity of corn rents will, we humbly

bly conceive; evince the necessity of a fair and equitable tax, which may maintain the right of the creditor in recovering the value of that corn, which he has forborne to exact pursuant to his deeds of conveyance, without being oppressive or injurious to the debtor; and there is no reason to doubt, when the creditor has the prospect of a just and impartial tax, but that he will wait with patience, and will forbear to demand his rents in kind; but if he has cause to imagine that, by a disproportionate taxation, he will be deprived of a considerable part of his property, it is natural to think that he will avail himself of the law and sue for payment, when his rents become due, which is near eleven months before they are taxed.

Experience has shewn this to be the case; and whenever the question has been moved before us, we acknowledge that we have considered ourselves bound to decide agreeable to the law which the contracting parties had imposed on themselves; and however this may, in the opinion of some, be looked upon as a hardship, we do not conceive it in our power to deviate therefrom, without a breach of our oath, and without shaking the very basis of civil society.

It is for these decisions that we are held forth by the enemies of public peace as the tyrants of the people and the oppressors of the poor; inasmuch that we have reason to be under the most dreadful apprehensions for our safety, and now find ourselves totally incapable of discharging our duty in such points of controversy. But the danger does not stop here; for the greater number of the inhabitants of this island, being charged with the payment of corn rents, it is no wonder if many of them are eager to have the annual value of those rents fixed as low as possible, without any regard to the fair price of corn; whilst, on the other hand, the persons to whom they are due are equally solicitous to hinder that abuse by which their property may be injured. This conflict, in the present times of political disputes, is artfully made a handle of to rouse and animate the populace. Comparisons are made between the supposed friends of the people and their supposed enemies, against whom the most insidious reflections are cast, and your Majesty's Royal Court is publicly held forth as the great obstacle to the wishes of the people, who are told that they will be forced to abandon their houses, and their families be exposed to starve. This venom is spread over the whole island, and artfully directed at the feelings and passions of the multitude, by means of a printed weekly paper called the Jersey Gazette, some of which we think it our indispensable duty to lay before your Majesty, as vouchers of the facts herein stated.

By these means, and other threatening insinuations, the honest dealer being intimidated, and fearing to expose his person, withholds his corn from market, which remains unsupplied, and the casual and sometimes concerted sale of a few bushels, at a price far below its value, becomes the standard for

the taxing the property of thousands of your Majesty's subjects.

And this is not the only evil resulting from the market not being supplied with corn, for by it the public must be at the mercy of the bakers, who cannot be bound to conform to the assize of bread, when no corn comes to market, or when it is sold there at so abusive a price as has been the case.

The last taxation for the corn rents, which took place in august last, will shew your Majesty the great abuse which prevailed in the course of the whole year from august 1784 to august 1786; only two cabots of wheat (about one english bushell) were brought to market, and sold for 30 sols the cabot, not more than three shillings and nine pence the english bushell; upon which standard the wheat rents which had become due at Michaelmas 1785, after deduction of the two sols per cabot for carriage and waste, were taxed at 28 sols the cabot, equal to three shillings and six pence the bushell, though during that period the average price of the wheat sold in the country was not less than 46 sols the cabot or five shillings and nine pence the bushell. This abuse is equally glaring from the comparative price of oats at market, which were there sold during the same period dearer than the wheat, notwithstanding that the rents due in oats are rated at half the value only of wheat rents.

This abuse is not likely to be confined to the above-mentioned period; since the last taxation, and at the time that some of the most insidious of the aforesaid publications were spread abroad upon this subject, some small quantity of corn was carried and sold at market for 28 sols the cabot, when the ordinary market price was above forty-three sols, for proof of which we annex an authentic note from the account thereof, by the Viscount, for your Majesty's information.

Although some provisions have been made in view of preventing abuses, it is apprehended the same would fail of the intended effect; and indeed we feel ourselves much concerned to be under the necessity of assuring your Majesty, that we find we dare not execute in this respect the functions of our office; the minds of the people having been so much heated and enflamed as to make any steps we would take, not only unsafe to our persons, but dangerous to the peace of the island, and most likely productive of the same commotions which happened in the years 1729 and 1769, when the populace, in defiance of law and government extorted from the civil power, several acts expressly cancelling orders of the King and Council, and directing the tythes, which make a considerable part of your Majesty's revenue, and the corn rents throughout the island, should unalterably be fixed at a price less than half their value.

The inflammatory and artful insinuations which are daily founded in the ears of the undiscerning multitude, against your Majesty's civil govern-

ment, against the persons of the Magistrates, and against the ancient laws and customs of the island, which, notwithstanding the country has prospered under these for ages, are treated as unjust, oppressive and ridiculous, will, we apprehend, convince your Majesty that our fears are not visionary, and that it now is become impracticable for your Royal Court to take cognizance of these abuses and subjects, or to decide therein conformable to the sacred and solemn oath they have taken "to administer justice impartially as well to the rich as to the poor, without respect of persons, according to the laws, customs, and usages of the country, without the risk of an actual insurrection, of which we have received more than obscure hints.

In the present critical situation of your Majesty's civil government, when every exertion is made to render the laws and the Magistrates contemptible and odious in the eyes of the people, we should have thought ourselves wanting in duty to your Majesty and the public, had we delayed longer making this faithful representation of facts; and making known to your Majesty, that had we not been determined to sacrifice every other consideration, even that of our own security, to the service of our country in the discharge of our functions, we had before this time been forced to discontinue the exercise of them. But we cannot dissemble to your Majesty, our serious apprehensions that we shall be under the inevitable necessity of putting a stop to our judicial functions, until, by your Majesty's superior wisdom and paternal interposition, an effectual remedy is applied to the increasing evil, not only before the next season for taxing the rents of the year 1786, but before the approaching term, when individuals may take the opportunity of contending upon the subject, and the country be thereby thrown into the utmost confusion, and the civil government exposed to every insult and danger from an insatuated multitude.

We fly, in this distressed situation, for relief and protection.

Jersey, the 24th. January. 1788.

Will. Ch. Lempriere, Lieutenant. Bailly.

Ph. De Carteret.

Fr. Maret.

Nic. Messervy.

Ch. Payn.

Elias Pison.

Ph. Robin.

John Poingdestrea.

James Hammand.

Letter from the Lieutenant Bailly with two representations of the Royal Court.

1st. Respecting settling corn rents. 2d. an act of the States of the 6th. of december 1786.

S I R,

Jersey, 24th. january 1787

AFTER the very great trouble and extraordinary attention which the Lords of his Majesty's Council have bestowed on the affairs of this island, I am exceedingly concerned to find myself under the indispensable necessity of transmitting a representation to his Majesty on a subject of the greatest importance, and which I beg leave to oblige particularly claims his most gracious and speedy interposition. If my presence or that of his Majesty's Crown officer should be deemed necessary for the investigation of those important objects now before the Council, I flatter myself we shall have timely notice given us to attend. But if, through some unforeseen difficulties, the Lords were not able to enter so soon into the examination of those subjects, I must beg leave to express my most serious apprehensions of the deplorable situation to which his Majesty's civil jurisdiction will be reduced, unless some provisional order is issued for the security of the persons of the Magistrates, and for the enforcing proper respect and obedience to the laws of the country.

I transmit by the same opportunity and inclosed herewith, a representation to the Lords of his Majesty's most honourable Privy Council, respecting an act passed in the assembly of the States on the 6th. of december 1786.

I have the honour to remain, Sir,

Your most obedient and most
humble servant,

W. Ch. Lempriere.

Certificate of the Deputy Viscount inclosed in the representation of the Royal Court, dated 24th. of january 1787.

As Deputy Viscount of the island of Jersey, I hereby certify, that the most ordinary market price of wheat since the 26th. of august last to the present time, has been forty-three sous four deniers per cabot, and that on the 28th. of october last, the reverend M. Sivret of the parish of S.

John's, sold at market four cabots of wheat for twenty-eight fous the cabot. Given under my hand this 27th. day of january 1789.

George Beneft, deputy viscount.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL;

The humble Petition of the undersigned members of the States of your Majesty's island of Jersey.

SHewETH,

THAT on the 24th. of january last the States were convened by the President.

That the business of the day began by a motion from the President, who afterwards took up the attention of the States for a considerable time on an affair which had been concluded on a former day.

That when these matters had been disposed of, one of the members of the States got up, and read a proposition which had been lodged au greffe as far back as the month of november last, conceived in the following words:

« The States considering that the law has not fixed the qualifications requisite for voting in the parish assemblies nor settled what constitutes a *principal de paroisse*, and it appearing to them that sundry law-suits and disputes have arisen on that subject to the great prejudice and vexations of the inhabitants of this island, they have resolved, that in future all who exercise the office of Magistrate, Rector, Constable, Centenier, Vingtenier, Constable's officer, Church-warden, *Procureur du bien public*, Collector of alms and Inspector of the public roads, all who contribute to public taxes, or in other words who are on the parish rate, whether they exercise any of the said offices or not, and all who become proprietors, by right of inheritance, will, or marriage of estates liable to pay rate, shall have a right of voting in the parish assemblies, whether it be for election of officers of police, for the rectification of a rate, or any other matters within the competency of a parish assembly. And in order to facilitate and expedite the examination of accounts, and other matters which require a minute discussion, each of the parish assemblies shall chuse at the ensuing sale of their wheat rents, or sooner if possible, a parish committee composed of the Rector, Constable, Centeniers, *Procureurs du bien public*, Church-Wardens, and of as many of the principal people as each assembly shall think proper respectively. That this Committee shall continue in force for three years, and then be chosen anew.

That

That this proposition, after a full discussion and examination into the law and usage, was approved of, and passed into an act by a considerable majority.

That the President entered a dissent on the said act in the following words:

“ I enter my dissent on the said act, that his Majesty’s good pleasure may be known on the subject. ”

That several members of the States represented to the President the irregularity of entering a dissent of so vague a nature, when the order of his Majesty in Council of the 2d. of June 1786 directs him to enter it on a specific objection. The following are the words of this order:

“ But, in regard it is necessary that those subjects, which concern your Majesty’s interest, or prerogative, or the constitution, or laws of the country, should never be passed into acts to take effect immediately, but be tendered in the first instance as propositions praying your Majesty’s permission that they may be enacted.

“ The Committee are of opinion, that whenever the President shall conceive the proposition made, to be of the nature described, and will enter his dissent upon that objection, such proposition shall be immediately transmitted to your Majesty to obtain your previous consent, and in the mean time, and till that is obtained, shall have no effect.

That the President was repeatedly desired by several members to enter some objection in his dissent; but he persevering in his refusal to enter any reason whatever, the States considered the dissent as of no force or validity, it not being conformable to your Majesty’s above-cited order in Council, and it appearing moreover as an attempt on the part of the President to extend a power, which, in the manner it has already been experienced, has given just cause of alarm, and has so much interrupted public business.

That on these grounds it was moved, that the sense of the States be taken, whether the act above-mentioned should be registered. The President refused to ask the opinion of the States upon this question, unless a motion was made in writing to that purpose.

That this refusal of the President caused a considerable demur, and several members wishing to accomodate matters, and remove this impediment to business, again pressed the President to enter some objection in his said dissent, which he still declining, the following motion was put in writing:

“ The States have resolved, that the proposition which has just now been approved of by the assembly of the States, respecting the right of voting in the parish assemblies, shall be registered in the book of the States, that it may have effect, notwithstanding the pretended dissent of the

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« President, in as much as the President has refused to enter any one of
 « those objections which are prescribed by his Majesty's order in Council
 « of 2d. June 1786.

That this proposition was put to the votes and approved of by the States,
 upon which the President exclaimed : « in that case, M. Greffier, I forbid
 « your registering the act. »

That, soon after, the President declared, he retracted the order he had given to the Greffier, and desired that the above-mentioned proposition, respecting the registering of the act, might be put into his hands that he might enter a dissent upon that also. The member, who had put in writing the motion, answered, that he would deliver it to the President, if it was intended to be registered, whether by the President's giving directions to the Greffier, or the Greffier's declaring his intentions of so doing, in conformity to the resolution of the States. To this no answer was returned either by the President or the Greffier, and the States proceeded to other business.

That the next matter that came under consideration was a Petition from the Merchants to the States, praying them to give their approbation and sanction to a memorial on commercial matters, which the Merchants had laid before the right honourable the Lords of the treasury. That an act was voted almost unanimously, approving of the Merchant's application as tending to the public advantage. This act was as follows :

« The Merchants of this island, associated together under the name of
 « the Chamber of Commerce, having addressed the States for the purpose
 « of obtaining their sanction to an application which they have made
 « to the ministers of state respecting the affairs of trade and navigation
 « in this island, the States, after having duly considered that subject and
 « heard on that business persons well versed in commerce, have found
 « that the undertaking of the said Merchants, and the different points contained in their memorial, are such as tend to make the trade and navigation of this island flourish and encrease, and therefore tend to the general welfare. That the privilege already obtained by their means, in an act of the last session of Parliament, which provides that vessels, equipt and sailing out of this place for Newfoundland, shall have a right to claim the same premiums as vessels sailing out of England, is a public advantage; and that the perseverance of the Merchants in the pursuit of the other points, tend to the same beneficial ends; in consequence of which it is approved of by the States.

That the States finding that John Dumaesq, esquire, one of their members, had been appointed agent by the Merchants for the prosecution of those objects of trade in England, made an act, which had been previously lodged au greffe for a considerable time, authorising him to appear as their Deputy in England for the same commercial business. They con-

ceived that a deputation from them might add weight to his solicitations. The said act is as follows :

» The Merchants of the Chamber of Commerce, having petitioned the
 » States to support by their approbation and in the name of the public,
 » the application which they had made, and which is now pending before
 » his Majesty and the Ministers of State, respecting the affairs of the
 » trade and navigation of this island, and the said Merchants having na-
 » med and appointed John Dumaresq, esquire, one of the members of
 » this assembly, their agent in the prosecution of the said matters, the
 » States have found, that the undertaking of the Merchants is advantageous
 » to the island and tends to the public good in general, and considering
 » the said M. Dumaresq is a proper person to continue that business, have
 » now authorised him to appear and to act as deputy of the States in
 » those matters which concern the trade and navigation of the said island,
 » and have charged him to give particular attention to the advancement
 » of the Newfoundland trade, as a branch which is more particularly in-
 » teresting to the inhabitants of this island in general.

That John Dumaresq, esquire, had previously declared that the public was to be put to no expence whatever for the pursuit of those objects, however beneficial to the community at large; it being a matter which the Merchants had undertaken at their own charge.

That the President thought proper to enter another dissent on this last act in these words :

» I enter my dissent upon the above deputation, considering it as illegal, and contrary to the public interest. »

Thus the President first virtually assents to the act, which approves of the memorial of the Merchants, by not entering his dissent upon it, and immediately after puts his dissent upon an act that appoints a deputy to carry the same memorial into effect.

That a member of the States then made a motion on another subject, which he read, and the purport of which was to authorise John Dumaresq, esquire, as being on his departure for England, to endeavour to obtain from your Majesty, as soon as possible, the confirmation of the proposition for the re-establishment of juries, which had passed in the States on the 4th. of October last.

That the President, without giving time to this member to say a word on the subject, observed, that if he meant merely to lodge the motion au greffe, he was willing to stay, but not otherwise. The member desired leave to make a few observations which the President refused to hear, and broke up the assembly abruptly, it being then about half past two o'clock P. M.

That your Petitioners conceive this sudden departure of the President

to be a direct opposition to your Majesty's order in Council of the 28th. of march 1771 which enacts : " that when any thing is proposed to the " assembly of the States, it shall be wrote down in the form in which " it is meant to be passed, and there shall be debated, after which it " shall be lodged au greffe for 14 days, &c. " That this conduct of the President is moreover contrary to your Majesty's late order of Council of the 2d. of june 1786, which reproves the President's claim of " stinging propositions in their birth by refusing to let them either be considered or discussed ; " and which, in another part, declares " all such " methods of stopping public business to be illegal. "

That this unexpected breaking up of the assembly, in the midst of public business, was attended with this irregular consequence, that it prevented the States from giving directions to the Greffier to transmit immediately to your Majesty the above-mentioned act of deputation with the dissent thereupon, agreeably to your Majesty's order. And in this state it remains at present in the hands of the Greffier, without either having its intended effect, or being in a train of receiving your Majesty's approbation.

That your Petitioners have given a faithful account of the above facts, as they happened on the 24th. of january last, with as few observations upon them as the nature of the subject would admit; and they beg leave at the same time to express their concern, that the conduct of the President should expose them to the unpleasant alternative of either acquiescing in the most flagrant acts of arbitrary power and breach of privileges, or of so frequently recurring to your Majesty for redress.

Your Petitioners therefore, alarmed at the confusion which must ensue unless your Majesty is graciously pleased to interpose, most humbly beg leave earnestly to renew the prayer, which they preferred to your Majesty in their petition of the 21st of november 1786 in these words :

" That your Majesty will be graciously pleased to take into your Royal " consideration the instances above-mentioned. That your Majesty will " be graciously pleased to order that the Lieutenant Bailly do not presume " in future, in any manner, to over-rule the States, under such pain as to your " Majesty shall seem meet. That the Lieutenant Bailly be permitted to " enter his dissent on such resolutions of the States only as concern your " Majesty's interest or prerogative, the constitution of the island or laws " confirmed by or with your Majesty's approbation, and in case such resolutions should be meant to take effect before your Majesty's consent " is obtained. That the said Lieutenant Bailly be strictly enjoined under " such pain as your Majesty shall judge expedient, not to rise from his " seat for the purpose of breaking up the assembly of the States at any " time while the States shall think proper, during the course and setting " of one day, to continue proceeding on the business before them; and " that the public business may not in future remain at a stand in the

to island, if the case last above-mentioned should happen again, that the States may be at liberty; on their being deserted by their President, to elect a judge delegate in the same manner as, by ancient and immemorial usage, they are accustomed to do upon the death or indisposition of the chief magistrate.

That your Majesty may be pleased further to order, that no dissent shall be deemed legal, unless the President enters therein some specific objections, as he is directed in your Majesty's above-mentioned order of the 2d. of June 1786, and that the Greffier be declared to be the Greffier of the States and not of the Lieutenant Bailly, and to be therefore obliged to obey the directions of the States. These or such other relief in the premises as to your Majesty in your great wisdom shall seem meet.

And your Petitioners, as in duty bound, will ever pray, &c. &c.

Jersey the 1st. of february 1787.

Edward Le Maistre, :	} jurats.
Philip Le Hardy, . .	
James Hemery, . .	
Richard Le Feuvre, rector of S. Peter's.	
Francis Valpy, rector of S. Mary's.	
A. Biffon, rector of S. Laurent's.	
Fr. Le Couteur, rector of St. Martin's.	
G. Bertram, rector of S. Clemens's.	
Th. Sivret, rector of S. John's.	
Ph. De la Garde, rector of S. Brelade's.	
Ed. Dupré, rector of S. Helier's.	
James Pipon, constable of St. Brelade's.	
Ch. Marinel, constable of St. Helier's.	
Fr. Ricard, constable of S. Ouen's.	
John Dumaresq, constable of S. Saviour's.	
Ph. Collas, constable of S. Martin's.	
Fr. Amy, constable of Grouville.	
John Dumaresq, constable of St. Peter's.	

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*Authority given to John Dumaresq esquire, by several members of the States to solicit before his Majesty in Council the re-establishment of Juries.*

**W** H the undersigned members of the States of Jersey, being of the number who approved and voted for the proposition for the re-establishment of juries in this island, as it passed the States on the 4th. October 1786, and having been prevented by the Lieutenant Bailly's abruptly

quitting the States on the 24th. January last from giving out opinion (as after due consideration of the subject we should have done,) on a motion made that day tending to authorise John Dumaresq esquire, constable of S. Peter's parish, to make application during his stay in London for his Majesty's confirmation of the above proposition, and to give such information as might be requisite on the subject, do hereby declare that it is our earnest desire, as well as the wish of the public, to obtain as soon as possible the re-establishment of juries in the island of Jersey on the plan approved of by the States. And, seeing that no meeting of the States is appointed, and M. Dumaresq being on his departure, we do hereby entrust and authorise M. Dumaresq to represent our sentiments and wishes on the subject, and recommend to him to use his utmost endeavours to obtain his Majesty's most gracious confirmation of this system of jurisdiction.

Given under our hands at Jersey the 7th. day of february 1787.

Edward Le Maître, } jurats.  
 James Hemery, }  
 Richard Le Feuvre, rector of S. Peter's.  
 François Valpy, rector of S. Mary's.  
 A. Riffon, rector of S. Laurent's.  
 Fr. Le Conteur, rector of S. Martin's.  
 G. Bertram, rector of S. Clement's.  
 Thomas Sivret, rector of S. John's.  
 Philip De la Garde, rector of S. Brelade's.  
 Ed. Dupré, rector of S. Helier's.  
 James Pipon, constable of S. Brelade's.  
 Francis Ricard, constable of S. Owen's.  
 J. Dumaresq, constable of S. Saviour's.  
 Ch. Marinel, constable of S. Helier's.  
 Francis Amy, constable of Grouville's.  
 Philip Collas, constable of S. Martin's.

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL;

*The humble Petition of the undersigned members of the States of your Majesty's island of Jersey.*

*SHEWETH,*

**T**HAT the records of this island are replete with various applications to several of your Majesty's Royal predecessors originating in the uncertainty

and confusion of the laws, and the disputes to which that uncertainty and confusion have given rise between the magistrates and the people.

That royal Commissioners have been sent hither at different periods, not only to decide upon, and correct the judgments of the Royal Court, which the inhabitants have from time to time loudly complained of, but also to establish such wholesome laws and regulations as might ensure the future peace and tranquillity of this island.

That, in the reign of Queen Elizabeth, the establishment of the legislature authority on a solid basis particularly attracted the attention of the royal Commissioners, who thought proper to declare that the States had been from time immemorial composed of the twelve Jurats, the twelve Clergymen, and the twelve Constables.

That no controlling power over the deliberations and resolutions of the States were then vested in the Bailly, neither do your Petitioners find that any such was ever exercised before the time of the present Lieutenant Bailly, and of his immediate predecessor in that office.

That no other controlling power, under your Majesty, was ever known to exist, except that of a negative on the acts of the States, which was constitutionally lodged in the Governor as representing your Majesty's sacred person in that assembly, a prerogative which is unrepealed, and which he still possesses.

That the Lieutenant Bailly and the Royal Court, having already in their hands a judicial authority, which the want of known and fixed laws rendered extremely formidable to the inhabitants, and seeing no other obstacle to a plenitude of power than the assembly of the States, gradually, and in process of time, encroached on its just privileges, till at last the Royal Court presumed to enact laws and ordinances without convening the States, and of course without the concurrence of the Governor; by which means the States were in some measure abolished, and the negative voice of the Governor was eluded.

That this encroachment, which united the legislative and judicial authority in the same body, gave birth to such a number of oppressive laws, many of them directed to the immediate interest of those who made them, that an insurrection of the inhabitants took place on the 28th. of September 1769, and notwithstanding the passive and pacific dispositions which have always characterised the inhabitants of this island, such was the animosity excited by the conduct of the Royal Court, that the persons of the magistrates were considerably endangered.

That in consequence of these commotions, and this uneasiness of the people, your Majesty thought fit, in your order of the 28th. of March 1771, to divest the Royal Court of the legislative power they had usurped,

and to reinstate the assembly of the States in its proper functions and authority.

That the late and the present Lieutenant Bailly, the son and the father, have been engaged since that time in a continual attempt to regain, by various means, that power which the wisdom of your Majesty had abolished.

That, amongst many others, a remarkable instance of this spirit of domination occurred in the year 1779, when James Pipon esquire, having been elected constable of S. Brelade's parish, the Court declared his election void, though no person contested it, on the ground that his office of Receiver of your Majesty's revenues was incompatible with that of a representative of the people; a law which had never existed, which they made *ex post facto*, and in defiance of your Majesty's order in Council of the 28th. of march 1771, which forbids the enactment of laws by any but the whole assembly of the States. Your Majesty most wisely thought it necessary to annul this unwarrantable decision.

That the late conduct of the Lieutenant Bailly in refusing to put questions to the votes, and of the majority of the Jurats in absenting themselves and incapacitating the States from proceeding to public business, was a continuation of the same uniform arbitrary system; and drew down your Majesty's displeasure, who declared such proceedings to be illegal in your order of the second of june 1786.

That it nevertheless pleased your Majesty, in the above-mentioned order, to allow the Lieutenant Bailly a right of entering his dissent, if he will on such resolutions of the States, as he may think contrary to your Majesty's interest or prerogative, and the constitution and laws of the island.

That the establishment of this new prerogative, hitherto unknown to the constitution, your Petitioners received with that profound reverence, and humble obedience, which your Majesty's loyal subjects of this island have ever shewn to the ordinances of their sovereigns, and entered an act on their books expressive of those sentiments.

That your Petitioners saw indeed, that this new prerogative of dissenting in the hands of one person, whilst there already existed a negative voice in the other, in the same assembly, was a very considerable restriction on its votes and resolutions; but they rejoiced however to find that their acts were, in the event of a dissent, to be immediately transmitted for your Majesty's Royal approbation. Conscious that their views and their actions are directed to the public good, they were happy to have them at any time submitted to the examination of their gracious Sovereign.

That, while your Petitioners acquiesces in the wisdom of the above-mentioned law, they feel themselves obliged, in the name of the people whom they represent, most humbly, but most earnestly, to lay before your Majesty

**Majesty the terror and alarm which the frequent, the wanton, and unnecessary abuse of this power of dissenting has spread throughout the island, an abuse which must eventually crush and annihilate the assembly of the States, or render its deliberations flow, nugatory, and of no effect.**

**That several representations from the members of the States touching several dissents are already before your Majesty, which still remain undecided, and by which your Petitioners humbly trust your Majesty will see their fears and apprehensions fully justified.**

**That an evil of the most serious tendency has attended these improper dissents; such is their number, and such their frequency, that a considerable time must necessarily elapse before the right honourable the Lords of the Committee of Council have investigated their merits, and made a report to your Majesty on the subject, which is unfortunately the case at present: nine months having passed since the first dissent, and during that period, the motions on which the dissent has been inserted, have no force of law however necessary and however indispensable they may be to the welfare of the inhabitants. In some instances, the occasion which gave birth to an act may be passed, before its legality has been discussed and determined in your Majesty's most honourable privy Council; and in cases of emergency, this unavoidable delay may produce the most fatal and irremediable consequences.**

**That under these discouraging circumstances, which clog and impede the free agency of the States for the good of the people whom they represent, your Petitioners observe with grief this abuse of the dissenting power of the Lieutenant Bailly's operating, though not in appearance, yet in its effects, as an absolute negative on their resolutions. And thus two persons in the same assembly may be said to have each a negative voice, the Governor, and the Lieutenant Bailly.**

**That your Petitioners have already incurred many very heavy expences, to the great prejudice of themselves and families in supporting and defending before your Majesty what they may now, with propriety, call the liberties and privileges of their fellow subjects: since their opposition was directed against proceedings and pretences of the Lieutenant Bailly and some of the Jurats which your Majesty has declared in your last order, arbitrary, dangerous, and illegal. That, if they are exposed by the illegal dissents of the Lieutenant Bailly to further expences in supporting individually before your Majesty's the acts which, as representatives of the people, they have thought proper to vote for, they must either bring ruin on themselves and families, or desert their duty, by submitting to whatever the interest, ambition, or caprice of the Lieutenant Bailly may impose upon them and the people at large.**

**That, in the many disputes which the despotic proceedings of the Lieutenant Bailly and the majority of the Jurats have occasioned between them**

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and the States, it has been their constant endeavour to misrepresent that assembly to your Majesty, and to attribute to it, views of faction and ambition : but the late order of the 2d. of June 1786, has fully justified the States from such ill-grounded imputations, by declaring, dangerous, arbitrary, and illegal, those measures and those claims of the Lieutenant Bailly and the majority of the Jurats which had caused that very opposition, which they affected to call seditions.

That your Petitioners are informed that the Lieutenant Bailly and some of the Jurats have lately renewed their misrepresentations, with a view no doubt, of giving the most unfavourable impressions of them to your Majesty; and that they have bestowed the most illiberal and indecent epithets on the proposition for the reestablishment of juries, now before your Majesty. A proposition which is the act of the legislative assembly, and therefore entitled to some respect; a proposition which meets with the concurrence of almost the whole body of the people, and a confirmation of which is by them most ardently desired.

That, unable to find any proper or even serious subject of accusation against your Petitioners, the Lieutenant Bailly and some of the Jurats have not scrupled to descend so low, as to pry into a convivial meeting under a tent, a mode of entertainment very usual in the fine summer months in this island, and which has often been honoured with the presence of general Conway during his residence here; and to magnify these scenes of mirth and joy into desperate seditions and dark conspiracies. That the Lieutenant Bailly and some of the Jurats, when they represent in such an odious light a dinner, which, as usual, was conducted with the greatest decorum and propriety, and at which none but the principal gentlemen of the island assisted, must have lost sight of those given some time before by the father and brother in law of the Lieutenant Bailly to the lowest rabble, and on a Sunday too, in which the greatest disorder, tumult, and drunkenness prevailed, and in which particular care was taken to instil into the minds of this multitude, irreverence, disaffection and disobedience to the legislative assembly of this country. That several outrages were committed on these occasions on the persons of those, who differ in political sentiments from the above-mentioned gentlemen; and that, in particular M. Le Hardy, a Jurat, in his endeavours to quell the riotous proceedings of some of this rabble, received several blows which have considerably affected his health.

That your Petitioners humbly crave your Majesty's indulgence for mentioning these minute particulars so unworthy the ear of their august Sovereign. Nothing but the attempt of the Lieutenant Bailly and some of the Jurats to convert the innocent amusements and recreations in which your Petitioners joined, into views and projects of sedition, could have induced them to enter into these very trifling details.

Your Petitioners upon the whole, beg leave most humbly to pray, that your Majesty would graciously deign to take into your royal consideration, the various impediments and obstacles which the Lieutenant Bailly is constantly laying in the way of public business; impediments and obstacles, which are more fully enumerated in several representations which are now before your Majesty; and that your Majesty would be graciously pleased to apply such remedies therein as may render the legislative assembly of some utility to this country, and that it may not in future, as it now is, be subject to the absolute controul of the Lieutenant Bailly. That in particular, such modifications and regulations may take place with respect to his power of dissenting, as may prevent his abusing it to the purposes of wantonly and unreasonably over-ruling the resolutions of the States, and interrupting the progress of public business; and above all, that your Majesty's pleasure may be known, whether each member of the States is to be subject individually to the expence which may be incurred in the support of these acts before your Majesty in Council on which a dissent has been entered, and which they have made in their collective and legislative capacity.

And your Petitioners, as in duty bound, will ever pray, &c. &c.

*Jersey 7th. of april 1787.*

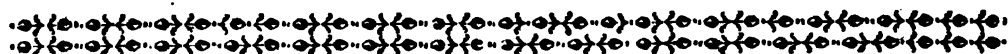
|                                             |           |
|---------------------------------------------|-----------|
| Edward Le Maistre, . . .                    | } jurats. |
| James Hemery, . . .                         |           |
| Richard Le Feuvre, rector of S. Peter's.    |           |
| Francis Valpy, rector of S. Mary's.         |           |
| A. Biffon, rector of S. Laurens'.           |           |
| Fr. Le Couteur, rector of S. Martin's.      |           |
| G. Bertram, rector of S. Clement's.         |           |
| Thomas Sivret, rector of S. John's.         |           |
| Philip De la Garde, rector of S. Brelade's. |           |
| Ed. Dupré, rector of S. Helier's.           |           |
| James Pison, constable of S. Brelade's.     |           |
| Francis Ricard, constable of S. Ouen's.     |           |
| Ch. Marinel, constable of S. Helier's.      |           |
| J. Dumaresq, constable of S. Saviour's.     |           |
| Thom. Binet, centenier of St. Peter's.      |           |
| Philip Collas, constable of S. Martin's.    |           |
| Francis Amy, constable of Grouville's.      |           |

I the undersigned member of the States and jurat of the royal Court, convinced of the arbitrary conduct of the Lieutenant Bailly, in his abuse of the power of dissenting, concur in the humble prayer of the foregoing Petition to your Majesty on that subject, and crave leave, with all humility to express my surprize at hearing that a representation from the Lieutenant Bailly and some of the jurats now lies before your Majesty,

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in which it is asserted, that I the undersigned, disapprove of the proposition for the re-establishment of Juries, I do declare that this assertion has not been authorized by me, and that I have never communicated to them my sentiments on the subject.

*Ph. Le Hardy.*



AT THE COURT AT S. JAMES'S, THE 8th. OF AUGUST 1787.

P R E S E N T,

|                                    |                        |
|------------------------------------|------------------------|
| THE KING'S MOST EXCELLENT MAJESTY, |                        |
| HIS ROYAL HIGHNESS THE DUKE        | EARL OF LEICESTER,     |
| OF YORK,                           | VISCOUNT HOWE,         |
| ARCHBISHOP OF CANTERBURY,          | VISCOUNT GALWAY,       |
| LORD CHANCELLOR,                   | LORD SYDNEY,           |
| LORD PRESIDENT,                    | LORD WALSINGHAM,       |
| MARQUIS OF BUCKINGHAM,             | LORD HAWKESBURY,       |
| MARQUIS OF CARMARTHEN,             | LORD HERBERT,          |
| LORD CHAMBERLAIN,                  | SIR JOSEPH YORK,       |
| EARL OF AYLESFORD,                 | WILLIAM PITT, esquire, |
| EARL OF EFFINGHAM,                 | SIR JOHN SKYNNER,      |

**W**HEREAS there was this day read at the board, a report from the right honourable the Lords of the Committee of Council for the affairs of Jerfey and Guernsey, dated the 2d. of this instant in the words following, viz.

“ Your Majesty having been pleased, by your order in Council bearing  
 “ date the 5th. of january last, to refer unto this Committee a petition  
 “ of the majority of the States of the island of Jerfey complaining of  
 “ the Lieutenant Bailly for having dissolved the assembly of the States;  
 “ the Lords of the Committee, in obedience to your Majesty's said order  
 “ of reference, have taken the said petition into consideration, and ha-  
 “ ving fully heard what the Council and the parties on both sides thought  
 “ fit to urge touching the said matter of complaint, this Committee hum-  
 “ bly beg leave to report to your Majesty, that the said complaint re-  
 “ fpects the conduct of the Lieutenant Bailly in dissolving two assemblies  
 “ of the States, one on the 4th. day of october last, and another on the 15th.  
 “ day of november following. As to the first, it appears that the business  
 “ proposed to be entered upon that day, was a certain proposition for  
 “ the re-establishment of Juries. That the Lieutenant Bailly having given  
 “ notice that he could stay no longer than two o'clock, there were but



three hours left to read over and to debate the said proposition. That the reading of the said proposition took up two hours and a half, though read with the greatest dispatch by one of the members, so that there was but one half hour left for the debate; the Lieutenant Bailly therefore proposed to give the States another day to take it into consideration, but they, instead of complying with the said proposal, thought fit to put the proposition to the votes upon the same day, and passed it without any debate at all. And this proposition having been submitted to your Majesty on the part of the States, in order to obtain your Majesty's approbation and leave for the States to pass the same into a law, is now by reference from your Majesty before this Committee. The proposition is, as the petitioners state, very voluminous, and the matter of it of much greater importance than the length, as it is a plan to introduce a new mode of trial into the island, and will require the enacting of more than fifty new laws to make the system complete. The Committee have therefore judged it necessary to postpone the consideration thereof, as it is not only a very weighty and an arduous question, whether this innovation shall be suffered in any respect to take place, but if such a change in the constitution should be thought expedient, every law in consequence, which according to this model is to be established, must be separately considered.

Upon this representation, the Committee can do no other than humbly to advise your Majesty, not only to acquit the Lieutenant Bailly for refusing to continue the assembly that day beyond two o'clock, in as much as the whole day, if it had been granted, would have had no other effect than to have given the party who passed the proposition, a colour to have said that the whole subject had been discussed, but at the same time to disapprove the proceeding of the States in passing a proposition so new, so arduous and so difficult by a hasty vote, and refusing to comply so far with the Lieutenant Bailly's proposal as to give even one day more for its consideration.

The other complaint against the Lieutenant Bailly for dissolving the assembly on the 15th. of november stands thus: that upon a debate, which of two subjects, then proposed to be considered, should be first brought forward, either a report from the Committee of the hospital, or a petition from the Merchants of the island respecting the defective state of the harbours. The Lieutenant Bailly insisted upon giving the former the preference; and the States insisted upon the latter having the precedence; and when neither would give way, the Lieutenant Bailly dissolved the assembly.

That your Majesty may be able to form a judgment which of the two were to blame, this Committee beg leave to state to your Majesty, that a report of the Committee of the hospital had been remitted to that day, in which respect it was irregular and contrary to the known

„ practice observed in the States to postpone the business so remised, and  
 „ to give a preference to any other; because an assembly is never con-  
 „ tinued to a second day, but for the purpose of finishing some particu-  
 „ lar business which is said to be remised to that day, for without such  
 „ a remise to a future day, whereby another day is added to the session  
 „ without the form of a new summons, the assembly would of course  
 „ be dissolved at the end of the first day, so that the second day being  
 „ specially appointed for the business so remised, the same ought in the  
 „ first place to be agitated and dispatched before any other subject be  
 „ taken up; and the Lieutenant Bailly is of course justified in objecting  
 „ to the bringing forward the Merchants petition, before the report of  
 „ the Committee of the hospital had been disposed of.

„ The Committee are therefore of opinion, that the proceeding of the  
 „ States, in putting this matter of preference to the votes, was irregular,  
 „ and the Lieutenant Bailly not blameable for dissolving the assembly.  
 „ And farther, that your Majesty may, if you shall think it fit, declare  
 „ that whenever the assembly is continued over to another day for the  
 „ sake of one or more particular matters specially remised to that day,  
 „ the States have no authority to take any other business in hand without  
 „ the unanimous consent of the whole assembly, because nothing being in  
 „ contemplation of the States to be done upon such future day, but the  
 „ business so remised; and the meeting being appointed for that special  
 „ purpose only, the members come prepared to discuss that and no other  
 „ matter whatever.

His Majesty having taken the said report into his royal consideration  
 and approving of what is therein proposed, is pleased, by and with the  
 advice of his privy Council, to declare that the conduct of the Lieute-  
 nant Bailly was not blameable in either of the instances mentioned in the  
 said report.

And his Majesty, by and with the advice aforesaid, is hereby pleased  
 to signify his disapprobation of the proceeding of the States on the  
 fourth day of October last, in passing a proposition so new, so arduous and  
 so difficult by a hasty vote, and refusing to comply so far with the pro-  
 posal of the Lieutenant Bailly, as to give one day more for the con-  
 sideration of the said proposition.

And lastly. His Majesty is pleased to declare, that whenever an assem-  
 bly of the States is continued over to another day for the sake of one  
 or more particular matters specially remised to that day, the States have  
 no authority to take any other business in hand without the unanimous  
 consent of the whole assembly.

And to the end that none may pretend ignorance of his Majesty's plea-  
 sure hereby signified, the Bailly and Jurats are to cause this his Majesty's  
 order to be forthwith published and registered in the said island.

And the Governor, Lieutenant Governor or Commander in chief for the time being, the Bailly and Jurats of the royal Court and all others the members of the States of the island of Jersey, and all whom it may concern, are to take notice and yield due obedience to his Majesty's pleasure hereby signified.

(Signed,) *Steph. Cottrell.*

*Council office, Whitehall 13th. august 1787.*

SIR,

I herewith transmit you five orders made by his Majesty in Council on the 8th. instant approving the report of the Lords of the Committee of Council for the affairs of Jersey and Guernsey, upon the several matters heard before the Committee some time since, and declaring certain acts mentioned in the said orders null and void. And I am to signify to you his Majesty's pleasure, that immediately upon the receipt of said orders you do take the proper measures for carrying the same into effect.

P.S. Duplicates of these orders have been likewise sent to the Lieutenant Governor of Jersey.

*To the Lieutenant Bailly of Jersey.*

I am, Sir,

Your most obedient humble servant,

(Signed,) *Steph. Cottrell.*

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AT THE COURT AT S. JAMES'S, THE 8th. OF AUGUST 1787,

P R E S E N T,

THE KING'S MOST EXCELLENT MAJESTY,	
HIS ROYAL HIGHNESS THE DUKE	EARL OF LEICESTER,
OF YORK,	VISCOUNT HOWE,
ARCHBISHOP OF CANTERBURY,	VISCOUNT GALWAY.
LORD CHANCELLOR,	LORD SYDNEY,
LORD PRESIDENT,	LORD WALSINGHAM,
MARQUIS OF BUCKINGHAM,	LORD HAWKESBURY,
MARQUIS OF CARMARTHEN,	LORD HERBERT,
LORD CHAMBERLAIN,	SIR JOSEPH YORKE,
EARL OF AYLESFORD,	WILLIAM PITT, esquire
EARL OF EFFINGHAM,	SIR JOHN SKYNNER,

W H E R E A S there was this day read at the board a report from the

right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 2d. of this instant in the words following, viz.

Your Majesty having been pleased by your order in Council of the 7th. of february 1785, to refer unto this Committee a petition of several of the Merchants and other principal inhabitants of the island of Jersey, complaining of the management of the duties upon wines and other foreign liquors imported into that island, and praying for the reasons set forth in the said petition that the revenue arising from the said duties might be appropriated to the use of the harbours, and that your Majesty would be pleased to make certain orders and regulations, touching the direction and management of the said revenue for the future; and your Majesty having been pleased by another order in Council of the same date, to refer to this Committee a petition from the States of the said island wherein referring themselves to the above recited petition from the Merchants and other principal inhabitants of the said island. The States likewise pray that your Majesty would be pleased to grant the same relief the Merchants have requested, whereby in effect the whole management of the said revenue would become vested in themselves, and the royal Court excluded. The Lords of the Committee in obedience to your Majesty's said orders of reference did, on the 28th. of april 1785, take the said two petitions into their consideration, and thought proper to require the Bailly and Jurats of the royal Court to return their answer in writing to the complaints contained in the said first mentioned petition from the Merchants, and your Majesty's having been also pleased by another order in Council bearing date the 5th. of january 1787, to refer unto this Committee an act of the States, which act, notwithstanding the above-recited petitions with the answer of the Bailly and Jurats were then depending, the said States not choosing to wait your Majesty's decision, but thinking fit to depart from the former mode of praying relief by petition to your Majesty, did take upon themselves to pass, on the 6th. of december last, and have transmitted for your Majesty's approbation, wherein they have enacted, by a law of their own, those very regulations word for word that were contained in the petition of the Merchants. The Lords of the Committee, in further obedience to your Majesty's said orders of reference did, on the 16th. of may last, take into their consideration as well the said act passed by the States as the above recited petitions, and the answer returned by the Bailly and Jurats to complaints contained in the said petition of the Merchants, and having been attended by Council for the parties, and having heard all that was alledged on both sides, the Committee think it proper first to state to your Majesty; that his late Majesty king Charles the second, by letters Patent bearing date at Westminster, in the twenty first year of this reign, was pleased to grant to the Bailly and Jurats of the island of Jersey for the time being and their successors, a power to levy certain duties upon wines, &c., and directed part of the revenues

revenues arising from such duties to be applied for the use of a school, and other part for the use of a poor-house, and the residue for the erection of a pier in the said island, and that, by various orders at different times made by the States of the island, and in some instances by orders in Council, the said revenues have been applied, not only to the building of a pier but likewise in other works of the like kind, in so much that two harbours, one at S. Helier's and the other at S. Aubin's in the said island have been compleated, and the said revenues or so much thereof as hath been wanted have been from time to time issued, for keeping the same in repair, and in regard it has been thought expedient to add some new works to the said harbours for the more commodious reception of ships and vessels, the merchants and other principal inhabitants have several times petitioned both the States and the royal Court to give directions for applying the said revenues and for issuing such sums as were necessary not only for the repairing of the said harbours which were represented by the said petitions to be in a ruinous state, but likewise for making such new and additional works as were therein stated to be useful in order to render the said harbours more safe and convenient, but by reason of certain disputes that had arisen between the States and the royal Court respecting the right of directing and managing the said revenues nothing has been done, and the fund destined to these purposes which amounts to a considerable sum, is useless and unemployed in the Treasurer's hands; and this Committee having fully considered the matters of the said petition and the said act of the States, beg leave in the first place, in order to lay aside the said act, to observe to your Majesty, that, as these duties were granted by king Charles the second and have their existence by virtue of the said grant, the right of explaining the same and enforcing the execution thereof, and all orders and regulations touching the application of the said revenues for the purposes aforesaid, belong solely to your Majesty, and ought not, without your Majesty's leave first obtained, to be made the subject of any laws by the States in their legislative capacity; and the Committee are rather surprised that the States have in this instance departed from the only proper and legal mode of obtaining relief seeing that they themselves in the outset of this business had, as become them, joined with the Merchants in laying their case before your Majesty as petitioners and not as legislators; for all which reasons, the Committee do agree humbly to advise your Majesty to declare the said act to be null and void.

With respect to the matter of the said petition, this Committee find that, as to the principal object of the said petition namely, the application of the revenue to the repairing of the harbours, and adding such new works and improvements as are deemed necessary to the enlargement and improving the same, there is no difference of opinion between the contending parties, but with respect to the management of the revenues in the

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making contracts, the appointment of the surveyors and workmen, and the issuing of the money, these powers being claimed by each of the contending parties in exclusion of the other, the necessary works, in consequence of these disputes, are at a stand and the public interest of the island neglected, so that it becomes necessary for your Majesty to decide the question, and this Committee have therefore considered the grounds of the several claims, and find that in fact, from the time this revenue was granted till the present complaint, this power has been uniformly exercised by the States, and the execution of their orders performed by a Committee of their own, which practice has certainly given them a plausible colour for supporting their claim, but upon looking into the letters patent, it appears to be therein directed, that the management and disposal of the revenue thereby appointed to be raised, shall wholly remain, and be in the Bailly and Jurats of the said isle and their successors for the time being with the advice and approbation of the Governor, and that nothing shall be acted therein without the advice and consent of the Governor, Bailly and Jurats or the major part of them, whereof the Governor and Bailly for the time being shall always be two; from all which, comparing the letters patent with the practice, it is evident, that while the royal Court and the States were upon good terms, the former thought that all these public works would be better executed by receiving the sanction of the States, whereof they themselves made a part, and therefore willingly submitted all this business to the general inspection and management of the whole assembly, and it were much to be wished that this practice had been continued, but the harmony of the two bodies having of late years been interrupted by the unhappy disputes that have taken place between them, it is necessary for your Majesty to declare in what persons this power is lodged, since the parties are not disposed to proceed amicably and with one accord, as they had happily been accustomed to do in times past.

And since the right must now be declared, this Committee can have but one opinion, which is, that it resides in the Governor, Bailly and Jurats, for the words of the letters patent are so clear to this purpose that no other possible construction can be put upon them, and no length of time though the practice has been without any exception to the contrary, can vary or overturn the plain positive declarations of the original grant.

Upon the whole therefore of what has been laid before your Majesty, this Committee are humbly of opinion, that it may be advisable for your Majesty to declare the right of managing and disposing of the revenue arising from the duties upon wines and other foreign liquors imported into the island of Jersey to be in the Bailly and Jurats of the isle and their successors for the time being with the consent and approbation of the Governor.

His Majesty having taken the said report into his Royal consideration,

and approving of what is therein proposed, is pleased by and with the advice of his privy Council to declare the said act or instrument to be null and void, and to order that the Bailly and Jurats of the royal Court, first communicating this his Majesty's order in Council to the States of the said island, do cause the said act or instrument (a copy whereof is hereunto annexed) to be erased from the records.

And his Majesty, by and with the advice aforesaid, is hereby pleased to declare that the right of managing and disposing of the revenues arising from the duties upon wines and other foreign liquors imported into the island of Jersey is vested in the Bailly and Jurats of the said isle, and their successors for the time being with the consent and approbation of the Governor.

And to the end that none may pretend ignorance of his Majesty's pleasure hereby signified, the Bailly and Jurats are to cause this his Majesty's order to be forthwith published and registered in the said island.

And the Governor, Lieutenant Governor, or Commander in chief for the time being, the Bailly and Jurats of the royal Court and all others the members of the States of the island of Jersey, and all whom it may concern are to take notice and yield due obedience to his Majesty's pleasure hereby signified.

(Signed,) *Steph. Cottrell.*



AT THE COURT AT S. JAMES, THE 8th. OF AUGUST 1787,

P R E S E N T,

THE KING'S MOST EXCELLENT MAJESTY,

HIS ROYAL HIGHNESS THE DUKE
OF YORK,

ARCHBISHOP OF CANTERBURY,

LORD CHANCELLOR,

LORD PRESIDENT,

MARQUIS OF BUCKINGHAM,

MARQUIS OF CARMARTHEN,

LORD CHAMBERLAIN,

EARL OF AYLESFORD,

EARL OF EFFINGHAM,

EARL OF LEICESTER,

VISCOUNT HOWE,

VISCOUNT GALWAY.

LORD SYDNEY,

LORD WALSINGHAM,

LORD HAWKESBURY,

LORD HERBERT,

SIR JOSEPH YORKE,

WILLIAM PITT, esquire

SIR JOHN SKYNNER,

WHEREAS there was this day read at the board a report from the right honourable the Lords of the Committee of Council for the affairs
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of Jersey and Guernsey, dated the 2d. of this instant, in the words following, viz.

Your Majesty having been pleased, by your order in Council of the 5th. of january last, to refer unto this Committee certain acts passed by the States of the island of Jersey on the 15th. of august 1786, and on the 24th. and 27th. of january last, together with the dissents entered by the Lieutenant Bailly against the same, and your Majesty having also been pleased by an other order in Council bearing date the 20th. of april 1787, to refer unto this Committee a petition from the States of the said island, bearing date the 7th. of the said month, containing many general complaints against the Lieutenant Bailly and Jurats, but ending in a prayer that your Majesty would be pleased to regulate and modify the power of dissenting from acts of a particular nature, which was lodged in the President of the assembly by your Majesty's order in Council bearing date the 2d. of june 1786. The Lords of the Committee, in obedience to your Majesty's said orders of reference, did, on the 10th. of may last, take the same into consideration, and have heard whatever could be urged by the parties or their council upon the several matters so referred to this Committee, and observing that the complaints made by the States in their petition against this new power of dissenting arise, not so much from the power itself, as from what they conceive has been an abuse of it by the President in entering his dissent to the said acts or instruments. This Committee did first turn their attention to the said acts or instruments; and first, with respect to the act or instrument passed by the majority of the States on the 15th. of august 1786, directing a payment of 266 livres 4 sous to M. John Dumaresq in quality of advocate of the royal Court for pleading in certain actions brought against the Treasurer of the duty upon rum and gin, this Committee finding that the said act or instrument was not lodged au greffe, conformable to the rule prescribed by your Majesty's order in Council of the 28th. of march 1771, are humbly of opinion, that the said act ought to be rejected for that reason only, which makes it unnecessary to enter into the other objections made by the President to the subject matter of the act or instrument itself, which he has transmitted together with his dissent, any farther than to observe that this act or instrument is not of such a nature or quality as to impower the President to interpose his dissent by virtue of the order of the 2d. of june 1786, in as much as it does not concern your Majesty's interest or prerogative, or the constitution or laws of the country.

The same observation likewise occurs upon the perusal of the act or instrument of the 27th. of january, which is an act appointing John Dumaresq, esquire, the general agent of the States in matters of trade and navigation; for although the said act or instrument is liable to a strong objection, as being directly contrary to the rule laid down by your Majesty in Council in the order of the 2d. of june 1786, whereby it is declared to be new and inconvenient for the reasons there alledged, for the States

to constitute a perpetual deputation of any person whatsoever to be their general agent, as that case was, when no particular business calls upon the States to appoint an agent, in which respect the act or instrument in question ought to be disallowed, yet the case does not seem to be among those upon which the Lieutenant Bailly is intitled to enter his dissent, as it does not concern your Majesty's prerogative or interest or militate against the constitution or laws of the country, but this Committee are of opinion that the objections against the passing of these last mentioned acts should have been stated to your Majesty in Council as reasons to have induced your Majesty to have annulled the same; and the Committee do therefore humbly advise your Majesty to adjudge both the said acts or instruments to be null and void, and to declare at the same time that the Lieutenant Bailly has, in these two instances, exceeded his authority by entering his dissent.

With respect to the third of these acts or instruments, namely that which was passed the 24th. of January last, whereby certain alterations are made in the parochial assemblies, the Committee are of opinion, that it falls directly within the rule laid down in the order of the 2d. of June 1786; and that the Lieutenant Bailly did properly enter his dissent against the passing of the said act or instrument.

For by that act the antient and immemorable constitution of the parochial assemblies, which have always been composed of the principal inhabitants, the constables and other officers of the parish, is overturned, and the assembly thrown open to all the inhabitants that pay rates or contribute to the public taxes, and at the same time that it admits into the assembly such a multitude of voters and makes them competent to determine all matters that may legally come before a parochial assembly, yet they are ordered as soon as possible to elect a Committee for the purpose of facilitating and expediting such business as requires a particular discussion, and this Committee is to continue for three years.

It is evident from this provision, that the Committee will in effect be nominated by those persons who have the art and talents of managing the assembly, and that the Committee so appointed will draw to themselves all the business of consequence if in their opinion it requires a particular discussion, so that at last the parochial assembly will in effect become contracted to a smaller number than it consists of at present, with this difference that, whereas at present none but the principal inhabitants as such have a right to vote in the assembly, the new Committee may be so composed if the populace think fit, that the meanest of the inhabitants may become members and those of property excluded; but the principal objection to the law in question is that it alters the constitution in two respects.

First, that it opens the assembly to all the inhabitants at large even to the meanest of the people if they pay ever so little to the public rates,

whereas it is now, as it always has been, confined to the principal inhabitants in the nature of a select vestry, changing in this respect the fundamental constitution of the island. Secondly, that by this innovation the right of determining who ought to be admitted under the description of principal inhabitants, which at present resides in the royal Court, is transferred from them to the people at large, which would be inconvenient, and though possibly it might be expedient to describe more particularly the qualifications of those who are called principal inhabitants, which at present is rather loose and leaves too large a discretion to the royal Court, yet this Committee are of opinion that it would be very unfit to deprive that Court of its judicial power which they have always exercised in these cases, and as it appears to this Committee without complaint, the Committee do therefore humbly advise your Majesty to declare this act or instrument to be null and void.

This Committee cannot dismiss this subject without taking notice that the Lieutenant Bailly ought to have specified his objections at the time he entered his dissent, and that the same should have been committed to writing, for it was the meaning of the order of the 2d. of June 1786, that the objection as well as the proposition should be transmitted, which cannot be done unless the same be committed to writing, at the same time the Lieutenant Bailly may well be excused for this omission as it is not expressly directed by the said order that the objection should be committed to writing.

To come in the last place to the petition of the States praying that your Majesty would be pleased to modify and regulate the power of dissent so given to the Lieutenant Bailly by your order of 1786, this Committee see no ground to make any alteration, for the petitioners do not point out or specify any particular cases wherein the said power is too extensive or any inconvenience that can arise from it, other than this, namely, that if the law in question should in some supposed cases of emergency require immediate confirmation, the delay occasioned by transmitting the same and hearing the parties might be attended with fatal consequences to the island, before the Council board could advise your Majesty to give it effect and operation, in answer to which it can hardly be imagined that the Lieutenant Bailly would venture to exceed the bounds of his authority, and thereby to incur your Majesty's displeasure by entering his dissent so unwarrantably as is supposed by this case, for by the order of the 2d. of June 1786, he is restrained in the exercise of this power to certain specific cases and it is next to impossibility that a law which militates against the prerogative or interest of your Majesty or the constitution or laws of the island can be of such necessity to be passed at the moment without your Majesty's knowledge or consent, and it is to be hoped that your Majesty's Council will not so far neglect their duty as not to give convenient dispatch to all such business as your Majesty shall be pleased to refer to their

consideration; from all which it appears, that the complaints in the said petition are not levelled so much against the order as against the abuse of it in the person of the Lieutenant Bailly, which being an objection common to all powers intrusted to other persons (for all such powers are subject to abuse in the execution) is no argument against the power itself, and it is observable upon the present occasion that though in two instances the Lieutenant Bailly has exercised his power improperly, yet that both the propositions to which he dissented were very unfit to have been passed into laws, and that in the last, the power has been properly and commendably exercised. The Committee are therefore humbly of opinion that the said petition ought to be dismissed.

His Majesty having taken the said report into his royal consideration and approving of what is therein proposed is pleased, by and with the advice of his privy Council, to declare the said acts or instruments above-mentioned to be null and void, and to order that the Bailly and Jurats of the royal Court, first communicating this his Majesty's order in Council to the States of the said island, do cause the said acts or instruments (copies whereof are hereunto annexed) to be erased from the records.

And his Majesty, by and with the advice aforesaid, is hereby further pleased to declare, that the Lieutenant Bailly exceeded his authority by entering his dissent against the said two acts or instruments passed by the States on 15th. of august 1786 and the 27th. of january 1787, the subject matter of the said acts or instruments not concerning his Majesty's interest or prerogative or the constitution or laws of the island.

And his Majesty is further pleased to order that, when the Lieutenant Bailly shall think fit to enter his dissent in any of the cases where, by his Majesty's order in Council of the 2d. of june 1786, he is empowered so to do, the objection taken by the Lieutenant Bailly to the proposition, as well as the proposition itself, shall be committed to writing and transmitted for his Majesty's information.

And lastly, his Majesty is pleased to declare, that there is no ground to make any alteration in the power given to the Lieutenant Bailly by the above-recited order of 2d. june 1786 to enter his dissent in the cases mentioned in the said order. And his Majesty doth hereby order that the petition of the States of Jersey bearing date the 7th. april last, praying that his Majesty would be pleased to regulate and modify the said power, be dismissed this board.

And to the end that none may pretend ignorance of his Majesty's pleasure hereby signified, the Bailly and Jurats are to cause this his Majesty's order to be forthwith registered and published in the said island.

And the Governor, Lieutenant Governor, or Commander in chief for the time being, the Bailly and Jurats of the royal Court and all others

the members of the States of the island of Jersey, and all whom it may concern, are to take notice and yield due obedience to his Majesty's pleasure hereby signified.

(Signed,) *Steph. Cottrell.*

AT THE COURT AT S. JAMES, THE 8th. OF AUGUST 1787,

P R E S E N T,

THE KING'S MOST EXCELLENT MAJESTY,	
HIS ROYAL HIGHNESS THE DUKE	EARL OF LEICESTER,
OF YORK,	VISCOUNT HOWE,
ARCHBISHOP OF CANTERBURY,	VISCOUNT GALWAY,
LORD CHANCELLOR,	LORD SYDNEY,
LORD PRESIDENT,	LORD WALSINGHAM,
MARQUIS OF BUCKINGHAM,	LORD HAWKESBURY,
MARQUIS OF CARMARTHEN,	LORD HERBERT,
LORD CHAMBERLAIN,	SIR JOSEPH YORK,
EARL OF AYLESFORD,	WILLIAM PITT, esquire,
EARL OF EFFINGHAM,	SIR JOHN SKYNNER,

WHEREAS there was this day read at the board, a report from the right honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, dated the 2d. of this instant in the words following, viz.

Your Majesty having been pleased by your order in Council bearing date the 5th. of January last, to refer unto this Committee, an act passed in the States of the island of Jersey on the 22d. of December 1786 and transmitted for your Majesty's approbation, declaring that from that time no action shall be brought against any person upon anonymous accusations; the Lords of the Committee, in obedience to your Majesty's said order of reference, have considered the said act and do find by the preamble, that the case which gave rise to it was a criminal action entered against one M. Francis Amy upon an accusation by an anonymous letter, of his being guilty of transporting, aiding or favouring the transportation of wool out of the island, which accusation, after repeated examinations had been found to be without foundation.

Whereupon this Committee take leave to observe to your Majesty, that they apprehend that if any public officer should presume to institute a criminal suit against any person, whatsoever upon no better ground than an anonymous charge, such officer would be guilty of a high misdemeanour, and would deserve to be dismissed from your Majesty's service; and that
such

Such a proceeding does not want the force of a special law to make it criminal; but if it is meant by this act to condemn all prosecutions, where the first intelligence of a crime comes from an anonymous information, though by such information the government may have been directed to discover and procure legal evidence against the party so accused, the act in that respect would be of most pernicious consequence, as tending to the concealment, instead of the detection of crimes. Upon the whole therefore, this Committee are humbly of opinion that, as the act in one construction is unnecessary and in another dangerous, it may be adviseable for your Majesty to declare the said act to be null and void.

His Majesty having taken the said report into his royal consideration is pleased, by an with the advice of his privy Council, to declare the said act or instrument to be null and void, and to order that the Bailly and Jurats of the royal Court, first communicating this his Majesty's order in Council to the States of the said island, do cause the said act or instrument (a copy whereof is hereunto annexed) to be erased from the records.

And to the end that none may pretend ignorance of his Majesty's pleasure hereby signified, the Bailly and Jurats are to cause this his Majesty's order to be forthwith published and registered in the said island.

And the Governor, Lieutenant Governor or Commander in chief for the time being, the Bailly and Jurats of the royal Court and others the members of the States of the island of Jersey, and all whom it may concern are to take notice and yeild due obedience to his Majesty's pleasure hereby signified.

(Signed) Steph. Cottrell.



*Memorial of the States of Jersey in support of the proposition for restoring the
trial by Juries, &c.*

TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL,

*The humble representation and petition of the States of your Majesty's island
of Jersey.*

S H E W E T H,

THAT the petitioners approach your Majesty with sentiments of profound humility and inviolable attachment to your Majesty's sacred person, family and government; and are impressed with the warmest sense of gratitude for the paternal care your Majesty has graciously deigned to manifest in many instances, for the preservation, safety and welfare of this island.

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That it has ever been the pride and boast of the people of Jersey, that they form a part of the dominions of the british crown, and are ranked among its faithful subjects.

That, as their loyalty to their Sovereign, and their dependance on his Government constitutes their glory and happiness; so, it is their utmost ambition to enjoy the common rights of british subjects.

That their ancestors have distinguished themselves in the service of your Majesty's predecessors by singular acts of fidelity, firmness and attachment. That for upwards of 700 years, they have supported the same spirit and principles, and have resisted during that period many powerful attempts to subdue their country, and corrupt their loyalty. That they have maintained their allegiance to their Sovereign, when every other part of his british dominions have renounced it, and nobly dared to defend their Prince with their blood and fortunes, when he was persecuted by a most powerful and nearly universal party, and had fled among them for refuge.

That, in consideration of the peculiar loyalty of the inhabitants of Jersey, of their military services performed from infancy to old age without any pay or gratification, of their spirit and cheerfulness in defending and guarding the territory where they reside, and of the dangers and hardships they are exposed to, in times of war, particular immunities have been either granted or confirmed to them, by almost every english monarch, and sometimes by the king, lords and commons: it being one of the ancient privileges of this island to address parliament in cases of emergency.

And here your petitioners crave the indulgence of mentioning some few extracts of those charters, and other tokens of royal favour, which cast such a lustre and such immortal honours on the country they inhabit.

And first, the charter of Edward the third begins with these words: " *Edwards dei gratiâ rex Angliæ & Franciæ ac dominus Hiberniæ, omnibus ad quos præsentis litteræ pervenerint, salutem: sciatis quod nos gratâ memoria recentis, quam constanter & magnanimiter dilecti & fideles homines insularum nostrarum de Jeresey, Guerneseye, Sark & Aureney, in fidelitate nostrâ & progenitorum nostrorum regum Angliæ, semper hæcenus persisterunt & quantâ pro salvatione dictarum insularum, & nostrorum conservatione jurium & honoris ibidem sustinuerunt tam pericula corporum, quam suarum dispensia facultatum, ac proinde volentes ipsos favore prosequi gratioso concessimus, &c.* "

A letter from the same Prince to the inhabitants of Jersey, commending their fidelity and acknowledging their services, is recorded thus: " *Rex dilectis & fidelibus suis ballivo, juratis, & omnibus aliis de insula nostra de Jeresey salutem, fidelitatis vestræ constantiam erga nos, & nostrorum conservationem jurium, nedum relatio, sed effectus operis dictis preponderans, clare probant. Nam semper in dilectione nostrâ vos ferventiores invenimus,* "

» pro quo graviora dispendia pertulistis. Propter quod, sicut honori nostra
 » convenit, communitatem vestram & singulares personas ejusdem sic curabi-
 » mus (deo dante) grate respicere, quod gaudebitis erga nos tam laudabiliter
 » vos gessisse. Velitis igitur affectione solita juxta firmam quam de vobis obti-
 » nemus fiduciam circa defensionem dictorum jurium, contra nobis adversan-
 » tes tam magnanimitate vos habere, ut preter laudis precanium quod ex hoc
 » mirifice poteritis adipsi, a nobis retributionem uberam reportetis. Super
 » aliis vero tam honorem nostrum quam commodum contingentibus dilecto
 » nobis Thomæ de Cerf Clerico de insula nostra predicta prebere vos volumus
 » plenam fidem. Dat apud Westmon: vices: die Maii, Anno decimo quarto
 » Edwardi tertii, per ipsum regem & consilium. »

In the same reign the castle of Mont Orgueil, which had been surprised
 by the french, was recovered by the inhabitants of Jersey, and this action
 together with their former services are acknowledged by Edward the fourth
 in the following manner: » Edwardus dei gratia rex Angliæ & Franciæ & do-
 » minus Hiberniæ, omnibus ad quos presentes litteræ pervenerint, salutem,
 » cum nobilissimus progenitor noster inclitæ memoriæ Richardus quondam
 » rex Angliæ, Franciæ & dominus Hiberniæ, post conquestum secundus, per
 » litteras suas patentes datas apud Westmonasterium, octavo die Julii, anno
 » regni sui decimo octavo, in consideratione benignitatis & magnæ fidelitatis
 » quos in legeis & fidelibus suis gentibus & communitatibus insularum sua-
 » rum de Jeresey, Guernesey, Sark & Aureney indes invenit, de gratiâ sua
 » speciali concessit pro se & heredibus suis, quantum in eo fuit, eisdem gen-
 » tibus & communitatibus suis, quod ipsi & successores sui in perpetuum fo-
 » rent liberi & quieti in omnibus civitatibus, villis mercatoriis, & portibus
 » infra regnum nostrum Angliæ, de omnimodis theloniis, exactionibus, custu-
 » mis, taliter & eodem modo quo fideles legei sui in suo regna predicto exti-
 » terunt: ita quod dictæ gentes & communitates suæ & heredes & succes-
 » sores sui prædicti bene & fideliter se gererent, erga ipsum progenitorem nos-
 » trum & heredes & successores suos in perpetuum, prout in litteris illis ple-
 » nius continetur: nos continuam fidelitatem gentis & communitatis dictæ
 » insulæ de Jeresey plenius intendentes, litteras prædictas & omnia singula in
 » eis contenta, quoad gentem & communitatem ejusdem insulæ de Jeresey,
 » acceptamus, approbamus, & eidem genti & communitati hæredibus & suc-
 » cessoribus suis per presentes ratificamus & confirmamus. Et ulterius nos
 » memoriæ reducentes quam valide, viriliter & constanter dicta gens & com-
 » munitas ejusdem insulæ de Jeresey nobis & progenitoribus nostris perstite-
 » runt & quanta pericula & perdita pro salvatione ejusdem insulæ & reduc-
 » tione castri nostri de Mont Orgueil sustinuerunt, de uberi gratiâ nostrâ
 » concessimus, &c. »

A confirmation of the privileges and favours above recited and an acknow-
 ledgment of further services is contained in a charter of queen Elizabeth,
 which begins in the following words: » Elizabetha, dei gratiâ, &c. Quum
 » dilecti & fideles legei & subditi nostri ballivus & jurati insulæ nostræ de

„ Jereſey, ac cæteri incolæ & habitatores ipſius inſulæ infra ducatum noſtrum
 „ Normanix & predeceſſores eorum, a tempore cujus contrarii memoria ho-
 „ minum non exiſtit, per ſpeciales chartas, conſeſſiones, conſirmationes &
 „ ampliffima diplomata illuſtrium progenitorum & anteceſſorum noſtrorum
 „ tam regum angliz quam ducum Normanix ac aliorum quampluris juribus,
 „ jurisdictionibus, privilegiis, immunitatibus, libertatibus, & franchiſiis, libere,
 „ quiete & inviolabiliter uſi, freti & gaſivi fuerunt, tam infra regnum noſtrum
 „ Angliæ, quam alibi infra dominia & loca dictioni noſtræ ſubjecta ultra ci-
 „ traque mare, quorum ope & beneficio inſulæ prænominatæ ac loca mari-
 „ tima prædicta, in fide, obedientia & ſervitio tam noſtri quam eorumdem
 „ progenitorum noſtrorum, conſtanter, fideliter & inculpate perſtiterunt &
 „ perſeveraverunt, liberaque commercia cum mercatoribus & aliis indigenis
 „ ac alienigenis, tam pacis quam belli temporibus, habuerunt & exercuerunt
 „ &c. Quæ omnia & ſingula cujus & quanti momenti ſint & fuerunt ad tu-
 „ telam & conſervationem inſularum & locorum maritimorum prædictorum
 „ in fide & obedientiâ coronæ noſtræ Angliæ, nos ut æquam eſt, perpendentes;
 „ neque non immemores quam fortiter & fideliter inſularii prædicti & cæteri
 „ incolæ & habitatores ibidem nobis & progenitoribus noſtris inſervierunt,
 „ quantaque detrimenta, damna & pericula tam pro aſſidua tuitione ejusdem
 „ inſulæ & loci quam pro recuperatione & deſenſione caſtri noſtri de Mont
 „ Orguel infra prædictam inſulam noſtram de Jereſey ſuſtinuerunt, indiesque
 „ ſuſtinent; non ſolum ut regia noſtra benevolentia, favor & affectus erga præ-
 „ fatos inſularios illuſtri aliquo noſtræ beneficentiæ teſtimonio, ac cæteris
 „ indiciis comprobetur; verum etiam ut ipſi & eorum poſlere deinceps in per-
 „ petuum prout antea obitam & debitam obedientiam ergo nos, hæredes &
 „ ſucceſſores noſtros teneant & inviolabiliter ſervent, has litteras patentes
 „ magno ſigillo Angliæ reboratas, in formâ quæ ſequitur illis concedere dig-
 „ nati ſumus, „ ſciatis, &c.

In the reign of James the firſt, a commiſſion was directed to Sir Robert
 Gardener and doctor Huſſey under the great ſeal of England, of which the
 following is the preamble : „ James the firſt, by the grace of God, king of
 „ England, &c. To our truſty and well beloved Sir Robert Gardener knight,
 „ and James Huſſey doctor of the civil law, and one of the maſters of our
 „ Court of chancery, greeting. Whereas, in our princely care and earneſt
 „ deſire for the eſtabliſhment and maintainance of juſtice, and for the ſecurity
 „ and wealth of our ſubjects generally in our realms and dominions, we have
 „ been very mindful of the good ſtate of our loving ſubjects the inhabitants
 „ of Jerſey and Guernſey and other dependencies, a portion remaining as
 „ yet unto us in poſſeſſion of our ancient dukedom of Normandy; and have
 „ been, and are the rather moved thereto, both for their entire and invio-
 „ lable fidelity born by them towards us, and our predeceſſors kings and
 „ queens of this realm of England, teſtified and declared by many of their
 „ worthy and acceptable ſervices towards this our ſaid crown, and alſo in reſ-
 „ peſt of their ſituation furtheſt remote from the reſt of our ſaid dominions,

and for that cause needing our special care and regard to be had of them, being thereby exposed to danger of an invasion or incursion of foreign enemies; and whereas we are informed, &c., for these causes know therefore that we have nominated you to be our commissioners, &c.

Another charter was granted to the inhabitants of Jersey by Charles the second, in the 14th. year of his reign, confirming their privileges nearly in the same style as former charters; and with additional testimonies of his royal favour and regard for the services done to him personally. One of these was a silver mace given to the island with this inscription: » taly haud omnes dignatur honore. Carolus secundus magnæ Britanniae, Francæ and Hiberniæ rez serenissimus affectum regium erga insulam de Jersey (in qua bis habuit receptum, dum cæteris dictionibus excluderetur) hocce monumento vere regio posteris consecratum voluit, &c. »

At earlier periods, particularly during the first reigns after the conquest, the island of Jersey was harrassed with almost continual attacks and invasions from the normans, which the inhabitants had always the spirit and good fortune to repel; and their hardships and losses in defending their country and maintaining their allegiance to England on these occasions, may still be found in several antient fragments of the history of those early times.

In the 20th. year of the reign of Henry the eighth the privileges granted to these islands were confirmed to them, with the consent of the Lords spiritual and temporal, in Parliament assembled.

And by act of the 3d of George 1st, chap. 4, new privileges were granted to them, and are therein recited to be, » for encouraging the said inhabitants to continue that steady and firm loyalty to the crown of Great Britain, which they have formerly and steadfastly shewn to the crown of England, and for their better support. »

Other privileges, principally regarding trade and navigation, have been granted from time to time to the islanders by acts of the British Parliament, such as by act of the 12th of Charles the 2d, chap. 32 : first of William and Mary, session the first, chap. 32 : 2d of William and Mary, session the second, chap. 9 : 4th of Ann, chap. 6 : and by acts of the sixth of your Majesty, chap. 40th : of the 9th chap. 28th : and of the 26th chap.

That, in later times, the islanders have shewn they were not unworthy of the name their ancestors had acquired, or of the favours their Sovereigns had bestowed. They have redoubled their zeal and labours to guard their country; their expences, to put the island in a state of defence, have been tenfold encreased; and their emulation in military discipline and exercises, encouraged and directed by their present zealous and active Governor, has brought their militia to a state of improvement unknown before. Nor must it be omitted that the two attacks of the french upon this island in the course of the last war, were repelled with vigour and success, as it is a pledge to your

Majesty that together with the perils inseparable from their situation, the inhabitants of Jersey have inherited both the spirit and the loyalty of their forefathers.

That your petitioners, whilst they reflect with peculiar pleasure and thankfulness on your Majesty's benign solicitude to preserve this small but ancient part of your dominions from the invasions of a powerful neighbour and the oppressions of that government, cannot but flatter themselves that your Majesty will deign to restore to its inhabitants those blessings which it is their birth-right to enjoy in common with your other natural subjects, and which must attach them more firmly, if possible, to the british crown and government.

And when your petitioners look around them and see the spirit of this enlightened age to assert the rights of mankind and to secure the lives, liberty and property of all persons against arbitrary power; when they consider that Great Britain gives the bright example, and is at this moment engaged in protecting her distant subjects of the east from oppressions; whilst she meditates the abolition of slavery in other foreign parts: when these appear to be the sentiments of the present times, it is surely not unreasonable that the people of Jersey, your Majesty's most ancient and free-born subjects should claim a portion of this universal benevolence; and that, arrived near the end of the eighteenth century they should now expect to be freed from those encroachments on their natural rights, and those shameful practices in their internal government of which they have so often complained, and under which they have been left to groan for some ages past.

Nor will the States of Jersey entertain the comfortless idea, that upwards of twenty thousands of your Majesty's british subjects, whom they represent, shall be doomed to perpetual vexation and troubles, and shall be left to entail on their posterity the contentions of the present times; whilst they have a gracious and benign Sovereign, ready to hear the humble suits, and disposed to redress the grievances that oppress his subjects.

Your Majesty is already informed that the evils and troubles here complained of, arise principally from the present form of judicature and the erroneous administration of justice. And that those evils are increased and are likely to assume a dangerous tendency from the enormous powers with which the Lieutenant Bailly is invested by the late orders of your Majesty, is what your petitioners with great humility submit to your Royal consideration. On these subjects therefore, they crave leave to offer the following humble representation and petition.

And first: may it please your Majesty to allow the States to express their grief and concern that the proposition submitted to your Majesty for the re-establishment of the tryal by juries, should bear the censure of having been passed in haste: and that the proceedings of the States on this momentous

question should therefore have been thought worthy to incur your royal disapprobation. It should seem, and the States are apprehensive from the manner in which this matter is stated in the report of the right honourable the Lords of the Committee of Council, that some unfortunate circumstance or a misconception of the mode of proceeding in the States of Jersey had led their Lordships to suppose that this proposition was to be discussed for the first time on the 4th of october. The States however trust that, if recourse be had to the authentic acts transmitted with the said proposition, and now at the Council board, that matter will be set in its proper light, and will tend to prove that the proposition passed with all the formalities which could give it weight and authority.

Yet, your petitioners, anxious to clear themselves of any imputation of precipitancy in passing that important act, beg leave further to state the following facts : that the general question of re-establishing trials by jury, had been for near four months, before an open Committee of the States, at which the Governor, the king's Procureur and Advocate, and every member of the States were earnestly and repeatedly desired to attend : that the specific proposition, after being regularly moved in the States, had been, for near three months, referred to the same Committee, and in the same manner open to every member of the States; that this Committee met repeatedly, and discussed every article of the proposition, correcting some and suppressing others; that the said proposition was moreover printed and published almost as soon as it was brought before the States; that it was twice lodged for fifteen days *au greffe*, the first time when it was originally moved, the second time when it had undergone the corrections and amendments of the Committee : that it was also taken up by some of the parochial assemblies, considered and approved of there; that it was three times read at length upon different meetings of the States; and, in short, that it underwent more publicity, examination and form, than any question ever moved in this island.

Your petitioners beg leave further to observe, that when the proposition finally came before the States on the 4th of october, the seeming precipitation with which it then passed, and which the Lieutenant Bailly occasioned by his early declaration, that he would stay no longer than two o'clock, did not prevent the urging of one single objection against it : since the Lieutenant Bailly and the Jurats who disapproved of the measure, had declared from the beginning (and persisted all along in their resolution,) that they would not open their mouths on the subject. And this is the language they hold to your Majesty, in their complaint against the States, for admitting such a proposition at all. In such a case be it permitted to observe, that the cutting short the debate, could only affect those who wished to recommend the measure : and that the States thought themselves justifiable in considering the limits thus imposed on them by the Lieutenant Bailly, as intended, indirectly, to throw obstacles in the way of passing the act. They are the more confirmed in this idea, because they never have heard of any

reason, either of business or other engagements which the Lieutenant Bailly had, for putting an end to the meeting of the States at that early hour.

Your petitioners would hold themselves highly reprehensible, and unworthy of the offices they fill, had they not bestowed the coolest and the most deliberate attention on a proposition which your Majesty is so justly pleased to call difficult and arduous; and which affects so materially the prosperity of the people of this island. Presumptuous, indeed, would the petitioners deem themselves, were they not sensible that deficiencies may exist in the plan proposed, and many imperfections it may have; but inconsiderate haste was what they chiefly wished and endeavoured to avoid. Persuaded, at the same time, that the principle is essential to the happiness of their fellow-subjects here, they rely with profound humility and full confidence on the superior wisdom of the right honourable the Lords of your Majesty's Council, to supply their defects, and correct the errors which they may have involuntarily committed.

The trial by jury is a right, as the States humbly conceive, peculiarly belonging to your Majesty's subjects of Jersey. It was the law of their country, perhaps, even before that glorious institution took place in England. It was the original jurisdiction of the normans, their ancestors; it is a privilege which they have not forfeited by conquest or disaffection, but which, on the contrary, they have entitled themselves to by their duty and unshaken allegiance. They therefore humbly claim it as an inheritance, and as their most precious right. Long before the constitutions of king John were established here, and for some centuries after them, the trial by jury was in use. The early parts of the records are full of examples of this fact; and the present practice, however absurd and pregnant with abuses, proves the original principle and existence of it.

Your petitioners beg leave to return their most sincere and grateful thanks to your Majesty for having put the proposition for juries in a train of hearing, by requiring the royal Court to give their objections, if they shall be so advised; and your faithful States humbly trust that your Majesty will condescend to add another instance of your goodness, by directing that important matter to be investigated as soon as the nature of the case will admit. The number of authentic acts drawn from records and annexed to the proposition, will satisfy your Majesty, that the defects of the laws, and that the manifold abuses and oppressions which prevail, are such, as require a speedy and effectual remedy.

The States cannot help lamenting, and expressing their serious apprehensions that it should have been found necessary to allow the Lieutenant Bailly to prescribe any hour he chooses to fix, for the breaking up of the States; a power which he assumed and exercised for the first time, when one of the most interesting questions that ever came before this assembly, was to be agitated. The inconveniencies arising from this, in addition to the other high
and

and hitherto unknown prerogatives, which the Lieutenant Bailly is lately put in possession of, cannot but prove a misfortune to this country. The Lieutenant Bailly has the right of choosing on what particular day he will have the States to meet: it seems therefore reasonable, that on a day so chosen by himself, he should have prepared his private affairs or engagements in such a manner as to do what every other member is compellable to, give that day wholly to the public. Yet if he is allowed by law to restrict, without any reason, the meeting of the States to three hours, as he did on that day, he may, to a shorter time; and thus the thirty-six other members of the legislative body, and the Governor himself, may be harassed with repeated attendance, to do that business in several days which might be transacted in one. The States also beg leave to observe, that by this means the censure so pointedly passed in your Majesty's order of the 2d. of June 1786, on the Lieutenant Bailly, = for presuming, by himself or with the = Jurats, to over-rule the States, the one by refusing to put questions to = the vote, the others by leaving the assembly abruptly, on purpose to in- = capacitate the States from acting, and to stop and prevent them from pro- = ceeding in the business before them, = will, in a great measure, lose its beneficial effects, as it remains only with the Lieutenant Bailly to declare his intention on entering the States, as he did on the 4th of October, and the interruption becomes sanctified.

With regard to the new restriction laid down for the proceedings of the States, namely, that when they meet by remise, no other business but that remised shall be agitated except all the members consent; the States beg leave with great deference to observe, that this may have the consequence of preventing many useful regulations from being considered, however urgent the business, either for the good, or even the safety of the island. Moreover, the business remised may take up but a short time, and the members of the States, who come from different parts of the country, and many from the remotest, are precluded from proceeding to any other matter, and are thereby obliged to more frequent attendance, to the great detriment of themselves and families. The States also hope to be pardoned for suggesting, that in cases of original meetings of the States, the members come equally unprepared for any matter then first to be started, as when the States meet by remise, and proceed to other business. The salutary law laid down in your Majesty's order of the 28th of March 1771, = that when any thing is = proposed to the assembly of the States, it shall be wrote down in the = form in which it is meant to be passed, after which it shall be lodged = au greffe for fourteen days at least before it shall be determined, = is also well calculated to prevent any mischief which might arise from the States meeting, without knowing the business that may be brought forwards.

The States would think themselves wanting in their duty to your Majesty and to their country, did they not offer their humble apprehensions to your Majesty on the new power of dissenting from the resolutions of the States,

Kk.

granted to the Lieutenant Bailly by your Majesty's order of the 2d of June 1786, and confirmed on the 8th of August 1787, nor can the States avoid expressing, as the result of the fullest conviction, that this power is derogatory to the ancient rights, privileges and charters of the island : and that it has excited already great jealousies and alarm among the inhabitants of every denomination.

On the first establishment of the dissent, although the States had not been previously summoned to alledge their reason against such a material change in the constitution, and therefore such a change came totally unexpected, yet they wished to acquiesce in the wisdom that dictated that measure, and therefore only guarded at first against the abuses of it : but the experience of each day confirms them more and more in their fears of the bad effects which may result from its existence in any degree.

Many of the troubles that have arisen, and vexations to which the people of this island have at all times been exposed, have been caused by that fundamental error in the constitution, the admitting the judicial body to such a considerable share in the legislation : a confusion of powers which naturally tends to the abuse of both functions, and which has seldom been tolerated in any well governed state. It is therefore a matter of deep concern to the States, (who must ever lament this fatal combination of powers, as being often exposed to the so naturally consequent abuse of them) to find such a vast increase of authority now granted to the chief Judge, as to give him almost an absolute controul over the proceedings of the legislative assembly. It adds also to their grief that it should have been found necessary to lodge this new prerogative in the present Lieutenant Bailly, when they reflect to what an excess his encroachments and claims of authority have been carried; particularly in that instance of assuming a right to put an antecedent negative upon all questions proposed in the States ; and likewise in dissolving the assemblies of the States on a sudden, and in checking and controuling the members in their debates.

The States cannot but be sensible to the censure which the creation of the new power of dissenting conveys on them : as if it were at this time necessary to lay additional checks upon their proceedings : a censure under which however they would endeavour to support themselves by the consciousness of their integrity and honest intentions, did it not entail an intolerable inconvenience on their posterity, and expose them by this accumulation of restraints to the unavoidable contempt and distrust of the people whom they represent.

Nor is it upon them alone that the introduction of this new power reflects, nor is it on them alone that this additional check is imposed. In both points of view, it seems equally to affect the character and privileges of the Governor of the island : for it naturally interferes with, and is calculated to intercept the exercise of that prerogative which he has enjoyed

From time immemorial as the true and natural representative of your Majesty, the assenting to or dissenting from acts of the legislature. It gives to another person an authority concurrent at least, if not clashing with his; and which therefore in its very creation contains the seeds of jealousy and discontent. And your petitioners think themselves warranted in saying, that there is no instance not only in the British dominions, but perhaps in any government, where the prerogative of Majesty is thus as it were split and parcelled out into two different parts unconnected with and independent of each other; and betwixt whom it may be a matter of dispute which of them is most properly entitled to exercise it.

The experience of former ages has shewn that no such additional power was requisite to keep the States within the due bounds of their duty and dependence. Yet, many and warm have been the contentions for power between the different branches of this political body in the course of these two centuries, occasioned by the undefined state of the powers and functions of each, and the uncertainty of the laws; the people also have more than once openly complained and rose up against the oppressions of the judicial body. No instance indeed occurs till within these few years, where the majority of the States have not submitted to be controuled by the Lieutenant Bailly and Jurats in whatever measures these last had to pursue. The combination between the different individuals of the judicial bodies sitting in the States, till of late, was complete, and therefore more powerful; and the encroachments and usurpations were of consequence more likely to take place, and to defy all opposition; particularly as that opposition might not at first be looked upon with a favourable eye by the Sovereign. The Governor of the island however was judged and found to be a proper check upon such proceedings in the States. His negative upon all subjects which concern your Majesty's interest or prerogative is a part of the constitution of Jersey. With this power he is, as before observed, invested from time immemorial, as representing your Majesty's sacred person, and to him the States are accustomed to look up as your Majesty's substitute.

This prerogative of the Governor is established and confirmed in sundry orders both ancient and modern of your Majesty's predecessors. And in your Majesty's late order of the 28th march 1771, it is moreover particularly required, that in case of the Governor's absence in the States, " then, that before any acts or matters determined therein shall be effectual, application " shall be first made to him to know whether he chuses to make use of the " negative voice which he hath. " And it is observable that the reason why this provision was so enforced, was owing to several very oppressive laws which the States, under the controul of the Court had passed, and which some of the Lieutenant Governors had opposed.

From the ordinances laid down by the royal commissioners in the year 1591, may be seen what the office of Governor was originally held to be in this island. In the first article it is said : " Et meme d'autant que de

» tout tems dont il ny'a memoire du contraire le Bailli & jurets de la dite
 » Isle ont eu jurisdiction sur & concernant toutes matieres de justice dans
 » icelle Isle & pareillement ont manié affaires de grandes importances avec
 » l'assistance du commun conseil nommé communement les Etats de l'Isle,
 » avec le consentement exprès du Capitaine & Gouverneur lequel en toutes
 » causes qui touchent & concernent l'etat Royal, Gouvernement ou prero-
 » gative de Sa Majesté en cette Isle, represente sa Royale Personne, » &c.
 And in another article of the same ordinances : » Item est ordonné, accordé
 » & déclaré que toutes autres causes de plus grands poids & importance qui
 » concernent la dite Isle & ne touchent au supreme Gouvernement d'icelle,
 » seront comme par ci devant de tems immemorial en la disposition du corps
 » des Etats de cette Isle, qui sont, les douze Jurets, les douze Ministres, &
 » les douze Connetables, pourvu toutefois qu'en chacune des causes ci-de-
 » vant deduites, le Gouverneur pour lors étant, y donne son consentement
 » exprès au nom de sa Majesté la personne de laquelle il represente, si la
 » cause ainsi le requiert & en chacune telle cause aura voix negative, » &c.

Another check on the proceedings of the States is lodged in the person
 of the Governor by the order of the 29th july 1619, in these words : » For
 » the better explanation of the article concerning the assemblies of the States
 » which was ordered not to be done without the consent of the Governor
 » or his Lieutenant in his absence; it is now finally ordered for causes made
 » known unto us, and for the avoiding of all future questions, that the fore-
 » said article shall continue in force with this qualification, that if the Bail-
 » liffe or justices shall require an assembly of the States, the Governor shall
 » not deferre it above fifteen days, except he have such cause to the con-
 » trary, either in respect to the safety of the Island or our especial service
 » otherwise, as he will answere to us or to the Lords of our Counsell where-
 » of he shall give us present advise as possible wind and weather may serve. »

The duty of the Governor, respecting the rights of the crown was fur-
 ther expressed by an article of the ordinances of the 12th june 1635, viz.
 » It is thought fit that the Governor or his deputy be present at all sen-
 » tences in any matters which concern the King's Majesty in interest or pre-
 » rogative, and that the King's Ministers may appeale wherein the King is
 » concerned. »

By the order of the 17th december 1679, registered in the records of the
 States, it is declared : » Lastly as touching the manner of assembling and
 » holding of the States of that island and the Governor's negative voice in
 » that assembly, it is our humble opinion that the same together with all the
 » ancient ordinances, priviledges, liberties, franchises, and immunities given
 » to or belonging as well to the inhabitants as to the Governor of the said
 » island, do remain without alteration, as they are established by grants and
 » charters from your Majesty and your royal predecessors orders or ordi-
 » nances otherwise. »

The same language respecting the ancient privileges of the island is held in the last article of the code of laws agreed upon by the States in 1771, and confirmed by your Majesty's order of the 28th march before mentioned, in these words : « Il est entendu ne point déroger en aucune maniere aux » privileges, droits, immunités, franchises ou libertés accordés à cette île » par sa Majesté & ses prédécesseurs, ni impugner ou infirmer les ordonnances, » ou loix établies par autorité royale & non rappelées; quoique tels privi- » leges, droits, immunités, franchises, libertés ou loix ne soient point infé- » rés ni rapportés dans ce recueil. »

From all the above authorities, your petitioners humbly hope that it will appear to your Majesty, that the Governor is the only true representative of your Majesty in the States of Jersey : and that your Majesty cannot be represented by two persons in the same assembly; that this prerogative in the Governor is congenial with the constitution; that from the nature of his appointment he can have no interests to clash with those of your Majesty; that, on the contrary, he holds most emphatically every advantage he enjoys in right of your Majesty, and in no other way; that for these reasons he is more likely to be particularly careful not to suffer the rights of the crown to be infringed; and that he is besides little if at all concerned in the judicial proceedings, and therefore more impartial and more unbiassed in his legislative functions. The States hope also, that your Majesty will graciously deign to maintain the inhabitants of Jersey in the privileges they have formerly enjoyed, and which have been so often confirmed to them by your royal predecessors, and which they cannot but conceive to be materially affected by the alteration which has taken place.

If, in the opposition which the States have given to the encroachments and pretensions of the Lieutenant Bailly and of the Court, and in their zeal to have ascertained and remedied the defects of the constitution and the abuses introduced in it, they have at times been thought to exceed the strict bounds, your Majesty will be graciously pleased to consider the novelty of their situation and the undefined state in which their privileges have rested. Your Majesty will also graciously deign to make some allowance for the natural effects of opposition in all situations : and then it is hoped the States will not be found to deserve so severe a rebuke as to have, not only every existing power in the Lieutenant Bailly their principal opponent, extended in his favour, but a power entirely new and unheard of in other countries, granted to him at the very time he was setting up the dangerous and arbitrary claim of putting an antecedent negative on all questions proposed in the States.

Anxious to stand in that favourable light before your Majesty, which their loyalty and honest intentions entitle them to hope; the States beg to be permitted a few observations on three instances where the Lieutenant Bailly's dissent was inserted; and to assure your Majesty that they did not

mean to violate either the order of the 28th march 1771, or that of the 2d june 1786; that on the contrary, they have always held it as their first duty to pay the most profound reverence to all orders issued from your Majesty.

That, with respect to the payment of M. Dumaresq's account, it was owing to the omission of a mere form of entry by the Greffier, who holds himself obliged to obey no other directions than those of the Lieutenant Bailly, that the States were unable to prove the accounts having been lodged au greffe: whereas in truth it had passed through that, and every other requisite, and had undergone a full discussion.

That, with respect to the act appointing M. Dumaresq agent for the States, they had not the most distant idea of appointing a perpetual agent: nor have they such a power by the constitution: their acts, of whatever nature they be, having force for three years only, as appears by the order of 28th march 1771. And your petitioners have only to lament that they were so unfortunate in their terms as to convey that implication: for their meaning was specifically and merely to authorise a person already named by the chamber of commerce to second the application which the merchants were then making to the Lords of the Treasury: and that, at the desire of the said merchants, as noticed in the act; nor did the States conceive they gave any authority beyond what they now mention.

That, as to the act respecting parochial assemblies, the States are happy to find that the right honourable the Lords of the Committee seem to admit of the expediency of describing more particularly the qualifications of those who are called principal inhabitants, which at present is much too loose and leaves too large a discretion to the royal Court. The States ventured to define those qualifications, such as they supposed the spirit of the law pointed out, under an idea that so essential a point should not be left to the opinion of any set of men, who may vary in their decisions according as the views of their party may require; a point so much the more interesting and becoming the attention of the legislative assembly, as the right of fixing the quantum of taxation upon every individual person in the island resides in the parochial assemblies. Your petitioners at the same time beg leave to offer this further observation, that they conceive with great deference their Lordships must have been misinformed in one respect touching the constitution, if they supposed the royal Court possessed any particular authority to declare who were principal inhabitants: that having always belonged in the first instance to the Constables as presidents of the parochial assemblies, and the Court having only been appealed to, under their general jurisdiction, as the only tribunal where a party wronged can seek for redress: and in fact there is no instance of such an appeal until of very late days. Yet the States are apprehensive that such was their Lordships idea, as the act is particularly insisted to be an alteration of the constitution, because it took from

the Court the power of determining who were principal inhabitants : for if it be meant only that the act laid a restraint on their decisions, it did no more than what is in every other country, the natural operations of all laws upon all tribunals of justice; and cannot therefore, as the States humbly conceive, ever be on that account exceptionable where any power of making laws resides at all. And that such power still resides in the States, agreeable to their ancient charters, is expressly declared in the order of the 28th march 1771, is recognized in the order of the 6th august 1784, and not taken away in that of the 2d of june 1786.

That, with respect to your Majesty's order of the 8th of august 1787, on the subject of the duties on wines, &c., and the management of the harbours, the States are in the first place solicitous to exculpate themselves of any intended disrespect to your Majesty, in having, as it is stated, presumed to legislate on a matter then depending before your Majesty, and having abandoned that proper mode by petition, which they first pursued. The States beg leave to represent, that the petition alluded to, was not from the States, but from some individual members, at a time when this assembly was prevented from meeting on account of the absence of the jurats; and therefore they had not applied to your Majesty as a body, until they were requested so to do by the merchants. And when the States passed the vote in question, far from entertaining an idea that they were exercising an enacting power, the language of the States throughout this act, is an humble prayer to your Majesty, that you would be pleased to establish specifically the provisions prayed for by the merchants. And nothing contained in this instrument could possibly take place, as is evident from the whole tenor of it, without your Majesty's approbation being first had and obtained. As to its bearing the name of an act, it is because the States use that term in all their proceedings, but it was tendered to your Majesty in the form of a proposition. And on this head the States, not aware that they were about to incur your Majesty's displeasure by such a proposition, had particularly in view the rule prescribed in your Majesty's order of the 2d of june 1786, touching propositions which affect the laws or the constitution; and they supposed they were taking the proper mode of laying the same at your Majesty's feet; for they ordered the Greffier to transmit immediately the said proposition to the Clerk in attendance of your Majesty's Council, in order to obtain your royal approbation. And these few words are the only terms of the act which express any will of the States at all; the other parts of it being an humble prayer, such as the States conceived they might address to their Sovereign. Yet in so judging they now find that they were guilty of an error, and your petitioners must lament their mistake, as it brings with it a severe reprehension.

Your Majesty is pleased to declare, that the right of disposing of the duties in question resides in the Governor, Bailly and Jurats. The States humbly trust that upon examination of the said act and all the other documents

relative to that business, it will appear that, from the moment the right was claimed, it was allowed by the States: for they never did pretend, that usage, however long and immemorial, could give them a right against the express words of any patent or act of Council. This application, as that of the merchants, was, that your Majesty would (as your Majesty can) alter and amend the provisions of that patent, and render them consonant to that usage, which the Court themselves, by their uniform acquiescence ever since the patent was granted, had found to be reasonable, and to be indeed the only fit mode of proceeding; and which even the Lords of the Committee in their report to your Majesty state as a desirable practice to be continued.

The States are the more disappointed that your Majesty's order is confined to declare the naked right, because they were led to conceive nothing but what was conciliatory would be pursued; and even on that idea, theirs and the merchants' counsel was stopped from making observations on the answer of the Court. Whereas by the present order, the States apprehend that their hands are effectually tied up from intermeddling at all in the matter, and by that means the legislative body see themselves shut out from the consideration of an object which is perhaps the first in point of magnitude to the island, and precluded from giving their sanction to the distribution of a perpetual tax levied upon themselves, and upon the people whom they represent.

The States further beg leave to observe, that two objects, which they humbly conceive to be distinct and separate, are blended in one and the same order, viz. The right of disposing of the money arising from the duty on wines, &c., and the right of directing the works of the harbours: these are now both placed in the hands of the royal Court. The States have never disputed that the right of disposing of this revenue to certain specific purposes belonged to the royal Court, agreeable to the terms of the patent: but the royal Court, on the other hand, have never pretended that the repairs of the harbours was an object of their competency, without the sanction of the States; and their answer to the first application of the merchants on this subject expressly declares it.

As the building and repairs of the harbours was not originally the sole object of the duty on wines, &c., so the said duty has not been the only fund which has contributed to such buildings and repairs. The public has at different times and by several means furnished considerable sums of money for that purpose: and all the regulations for the constructing and augmenting of the harbours have originated in the States. The appointment of the harbour-masters of both towns, and of the master and crew of the quarantine boats, and the power of directing and controuling them in their duty, is also lodged in the Governor and States by the code of laws confirmed by your Majesty in 1771. Yet the States apprehend that your Majesty's order of the 8th of august 1787, conveys a part of these functions
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of the States into the hands of the Court. For the legislative assembly has now no further care of the different piers, quays, wharfs, and other public edifices of this nature, which they and their predecessors have caused to be erected; and it is in the power of the Court, of themselves, to demolish, alter, or new-plan what has been originally done under the immediate direction or sanction of the States. The Committee of the piers which has subsisted for upwards of a century, and was become, on account of its great utility, a standing Committee in the States, deputed specially for the more ready and immediate attention to the harbours, which kept a registry of its own, recording all its transactions; and which was indeed considered in the code of laws almost in the light of a body politic, being there vested with the power of directing sundry matters respecting the harbours: this Committee seems to be rendered, as it is conceived by the present order of your Majesty, either an useless body, or is indeed annihilated: and the trade and navigation, those first resources of this little country, common to all its inhabitants, are now deprived of the assistance and support which, in a case of necessity, should be given to them by the representatives of the people.

Your petitioners beg the indulgence of making one more observation on this point, namely, that as it is ordered in express terms by the said patent, that "all persons which shall be employed as well in the receipts of the rents or revenues thereupon arising, as also in the disbursements of the same to the uses before specified, shall from time to time yearly make account of their receipts and disbursements of the said rents and revenues, in the public assembly of the States of the said isle," it seems reasonable to conclude that the States were intended to have some share in the management of the said revenue, and in the works to which it was destined; and it is worthy of remark, that the application which was made to king Charles, for establishing the duties on wines, &c., and which obtained the patent above-mentioned, came from the States of Jersey, as appears from the preamble of the patent itself, and by the records of the States. How it came to pass that the disposal of this public revenue was vested in the Bailly and Jurats only, and not in the legislative assembly at large, who were the petitioners, is perhaps already accounted for, by what has been said of the then subserviency of two parts of the States to the views and pretensions of the other part.

Your Majesty has been most graciously pleased to determine otherwise of the duties imposed of late years upon the articles of rum and gin. That impost was established at the prayer of the States also, and agreeable exactly to the mode they proposed; all the regulations which took place, originated in the States were, on the 3d of november 1779, formed into an act, so called, agreeable to the usual appellation of all resolutions of the States, and it was tendered to your Majesty under that title for your royal approbation. The same was confirmed by your Majesty's order of the 2d of de-

member following, with this clause : « Que le produit des dits droits sera employé a des usages & services publics, pour le bien commun de l'île & des habitans, & sera à la disposition de l'assemblée des États. »

Your petitioners are truly grieved to find by an other order of your Majesty, bearing date the 8th of august 1787, that when they submitted a law to your Majesty for preventing criminal prosecutions grounded upon anonymous papers only, their intentions should have borne the appearance under which it seems to have been viewed by the right honourable the Lords of the Committee, as stated in their Lordships' report on that subject. The States are too sensible of what they owe to society and to their own consciences, to wish to conceal rather than detect crimes : and the act itself was meant to prevent in future a crime of the most pernicious nature, the prosecution of innocence on dark, anonymous libels. The subject which gave rise to that law, was of this description; it alarmed many principal inhabitants, and occasioned a great outcry in the public. Two individuals, one of them a member of this assembly, were at three different times brought before the Court on their trial, and kept in a state of suspense for several days. Even after the hearing of several witnesses, the king's Procureur was allowed to procure further information, and upon the fullest investigation, the matter proved not only to be void of foundation, but conceived in malice. But the guiltless persons obtained no redress for this persecution : and your Majesty's loyal subjects are still apprehensive that they are exposed to the malevolence of wicked and ill-designing men. Their Lordships indeed have been pleased to give it as their opinion, that « any public Officer who should presume to institute a criminal suit against any person upon no better ground than an anonymous charge, such officer would be guilty of a high misdemeanour, and would deserve to be dismissed from your Majesty's service. » Yet no law now exists to abolish a practice so destructive of the repose, and contrary to the liberties of the inhabitants : the act having been erased from the records, agreeable to your Majesty's command, and published throughout the island as dangerous or unnecessary.

Your Petitioners humbly crave your Majesty's attention to one more essential subject, namely, the Greffier's duty and functions in the States; and they beg leave to observe, that this was a point in difficulty submitted to your Majesty by the States in two former petitions : that it was one of the points set down for the consideration of the right honourable the Lords of the Committee in february 1786 : that it was so communicated to the States by the Clerk in attendance of your Majesty's Council, in a letter dated the 23d april 1785, in order that the parties might prepare themselves upon this as well as upon the other points in dispute; that the matter was accordingly spoken to before their Lordships in february 1786, but was given up on the part of the Lieutenant Bailly's Council : that no rule however has been prescribed on this head, either by your Majesty's order of the 2d of june, or in either of the subsequent orders of the 8th of august 1787.

And your petitioners are under the necessity of further informing your Majesty, in addition to what was stated in their former petitions, that they experience daily the inconveniencies arising from the Greffier's considering himself as the Greffier or Clerk of the Lieutenant Bailly only. For since the last orders of your Majesty have been issued, the Greffier has refused to attend a Committee of the States; he has also refused the communication of your Majesty's orders in Council to the same Committee; and even denied them the inspection of their own records, and of the propositions which are lodged au greffe for the consideration of all the members, all which appears by the report of the said Committee of the 17th october 1787; and he has declared openly in the States, that he would not act in any respect without the direction or permission of the Lieutenant Bailly, although he is bound by an article in the code of laws, to attend all the Committees of the States. Upon all these accounts, the States submit to your Majesty, the expediency of ascertaining the duty of this officer, in order to avoid all future disputes on that head.

Upon the whole, your loyal and ever devoted subjects, the States of Jersey, relying with unbounded confidence on your Majesty as their gracious Sovereign and benign protector, most humbly implore your Majesty to take into your royal consideration the subject of this their humble representation and petition : and they most ardently pray, that your Majesty will be graciously pleased to order that the proposition for the re-establishment of the trial by jury, that great and chief object of their solicitude and prayer, may be investigated and finally settled as soon as the nature of the case will admit and their exigencies require. That it may please your Majesty, out of your abundant grace and justice, to reconsider your orders of the 2d of june 1786, and of the 8th of august 1787, touching those points which lay new checks upon the legislative assembly, and encrease the powers of the Lieutenant Bailly; but particularly with respect to the new prerogative granted to him of entering his dissent upon the resolutions of the States; and to fix the time of session for the States during the course of one day. That your Majesty would graciously condescend to explain what shall be understood in future by the term of principal inhabitants, and who shall have the right to sit and vote in parochial assemblies under that title : that your Majesty may be graciously pleased to pronounce upon the expediency of enacting the new provisions prayed for by the merchants respecting the duties on wines, &c., and to make known your pleasure whether the States and their Committees are to be deprived of their ancient rights of directing the works of the harbours. That your Majesty will be pleased to enact a law forbidding in future any criminal prosecution founded upon anonymous papers only, under such penalties as your Majesty shall judge proper; and, finally, that your Majesty will be graciously pleased to declare that the Greffier is bound to observe the directions of the States of this island.

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This or such other relief in the premises as to your Majesty, in your great wisdom, shall seem meet.

Signed, by order of the States,

Ph. De Carteret, greffier.

20th march 1788.



